

IDEAS AND SOLIDARITIES OF THE MEDIEVAL LAITY

England and Western Europe

Susan Reynolds

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CONTENTS

Preface

GENERAL IDEAS AND SOLIDARITIES

- I Social mentalities and the case of medieval scepticism
Transactions of the Royal Historical Society series 5, 41. London, 1991
- II Medieval *origines gentium* and the community of the realm
History 68. London, 1983
- III What do we mean by “Anglo-Saxon” and “Anglo-Saxons”?
Journal of British Studies 24. Chicago, III., 1985
- IV Eadric Silvaticus and the English resistance
Bulletin of the Institute of Historical Research 54. London, 1981
- V Magna Carta 1297 and the legal use of literacy
Historical Research 62. Oxford, 1989
- VI The history of the idea of incorporation or legal personality: a case of fallacious teleology
First publication

URBAN IDEAS AND SOLIDARITIES

- VII English towns of the eleventh century in a European context
Die Stadt im 11. Jahrhundert, ed. P. Johanek. Münster: Institut für vergleichende Städtegeschichte an der Universität Münster, 1995
- VIII Towns in Domesday Book
Domesday Studies, ed. J.C. Holt. Woodbridge: Boydell & Brewer for the Royal Historical Society, 1987

- IX [The rulers of London in the twelfth century](#)
History 57. London, 1972
- X [The farm and taxation of London, 1154-1216](#)
Guildhall Studies in London History 1. London, 1975
- XI [Decline and decay in late medieval towns: a look at some of the concepts and arguments](#)
Urban History Yearbook. Leicester, 1980, pp. 76-78
- XII [The forged charters of Barnstaple](#)
English Historical Review 84. Harlow, 1969
- XIII [1483: Gloucester and town government in the middle ages](#)
The 1483 Gloucester Charter in History, ed. N.M. Herbert et al. Gloucester: Alan Sutton Publishing Ltd., 1983
- XIV [Medieval urban history and the history of political thought](#)
Urban History Yearbook. Leicester, 1982, pp. 14-23
- XV [The writing of medieval urban history in England](#)
Theoretische geschiedenis/Historiography and Theory 19. Amsterdam, 1992
- XVI [Space and time in English medieval towns](#)
First publication

[Index](#)

This volume contains viii + 253 pages

PREFACE

My interest in the collective activities of medieval lay people and the solidarities that underlay them were awakened soon after I started to work on medieval English towns in the mid-sixties. On the one hand I was struck by the dogged persistence of the people of Barnstaple, whose enterprise in fabricating charters for themselves I began to perceive dimly as soon as I happened on the footnote to the *Calendar of Patent Rolls, 1476-85*, p. 62 (see no. XII in this volume). On the other, I was puzzled by the difficulty of deducing the interests and values that motivated the leading Londoners in the twelfth century: calling them patricians in the usual fashion did not seem to help much (no. IX and its by-product no. X). When I began to compare English towns with towns elsewhere it seemed important to look more directly at the ideas about society and politics that their inhabitants were likely to have held (no. XIV). From there it was natural, especially in the context of teaching medieval English and European history to undergraduates, to consider people outside towns as well. That needed a whole book (*Kingdoms and communities in western Europe*), which was published by Oxford in 1984, but produced two papers about the solidarities of kingdoms and peoples on the way (nos. II and IV).

All but one of the other papers printed here have followed from this combination of interests. Thinking about the ideas of the medieval laity confirmed my sense that their capacity for rational and independent thought has often been underestimated by those who see the middle ages through the eyes of the clergy and academics of the time: hence no. I. It also convinced me that we can only sort out our own ideas if we look directly at them and at the historiographical tradition we have inherited (nos. III, VI, XI, XV). The one essay that at first sight falls outside this line of thought is that on Magna Carta, 1297 (no. XV). Like the Barnstaple forgeries, it was serendipitous: I was invited to attend the Committee on the Export of Works of Art to advise on the proposed sale of an original of the charter to America. Looking at the original made me realise that there was something odd about making a concession in a new charter by changing a text within it that was supposedly being recited verbatim. The interplay of the traditions and ideas of the baronage with those of the new legal profession that

were implied in the story I worked out, together with the way that the use of written records affected both groups, seem to bring this essay within the scope of the kind of ideas and solidarities that interest me.

Although I have excluded articles that have been more or less completely incorporated later into books, anyone who - improbably - tried to read these papers straight through would nevertheless find some repetitions between them. That is partly because I have been addressing different audiences but partly too because some points seem to me important enough to justify repetition. Past usage and recent discussions make it essential, for instance, to make clear what one means by the words 'town' and 'urban' each time one uses them in the context of medieval urban history. Other subjects, such as what I take to be the medieval norms of consultative and collective government, or the confusion of modern and medieval ideas that follow from using words like oligarchy, patriciate, or borough - let alone 'borough status' - also crop up more than once. They have gone on seeming to me to need more attention than they normally receive.

The obtaining of permission to reproduce the articles was much easier than I expected, thanks to the kindness and efficiency of the editors or publishers concerned. They are the Literary Editor of the Royal Historical Society (I); the Editors of *History* (II, IX), of *Historical Research*, formerly the *Bulletin of the Institute of Historical Research* (IV, V), and of *Theoretische Geschichte* (XV); Professor Peter Johanek (VII); the Librarian of the City of London Guildhall Library (X); Cambridge University Press (XI, XIV), and the Longman Group (XII). I am also grateful to the Literary Editor of the Royal Historical Society and Boydell & Brewer Publishing and to the Chairman of the Gloucester Civic Trust and Alan Sutton Ltd for confirming that the copyright in VIII and XIII belongs to me and that they had no objection to my reprinting them.

I have taken this opportunity to change some misprints as well as a few words that now strike me as wrong. I have also added some afterthoughts at the end of nos. I, II, III, IV, VIII, IX, X, and XI.

SUSAN REYNOLDS

London, 1994

PUBLISHER'S NOTE

The articles in this volume, as in all others in the Collected Studies Series, have not been given a new, continuous pagination. In order to avoid confusion, and

to facilitate their use where these same studies have been referred to elsewhere, the original pagination has been maintained wherever possible.

Each article has been given a Roman number in order of appearance, as listed in the Contents. This number is repeated on each page and quoted in the index entries.

General Ideas and Solidarities

I

SOCIAL MENTALITIES AND THE CASE OF MEDIEVAL SCEPTICISM

THE history of mentalities has now become so widely accepted that even British historians sometimes refer to it: one hardly needs to talk about *mentalités* any more, though the French word still sounds more modish.¹ But the subject goes back at least to Vico. Although *Weltanschauung* and *Zeitgeist* sound old hat by comparison with *mentalités* the words remind us that nineteenth-century German historians were interested in the different ways past societies may have viewed the world, while F. W. Maitland and Henry Adams are obvious examples of Anglophones who in their different ways tried to understand medieval ways of thought. In 1933 Jean Guitton, a Frenchman, it is true, but one who presumably came out of that older tradition of intellectual history against which Lucien Febvre set himself, wrote about the need to study the *mentalité* of an age and summed up what he meant by this as ‘the totality of those implicit assumptions which are imposed on us by our environment and which rule our judgements.’²

What unites all these approaches to the subject is that they have all been products of societies in which it has more often been assumed than argued that people in different societies think differently. Since the eighteenth century, for instance, it has commonly been assumed that people in the middle ages were less critical and rational than modern people and that religious faith came naturally to them. Eighteenth- and nineteenth-century ideas of historical evolution and progress made this a reasonable assumption. The combination of Enlightenment and ethnocentricity allowed eighteenth-century Europeans to see their own society as having emerged from centuries of superstition and barbarism at the same time as they regarded the physically different ‘savages’ whom they were converting, conquering, or enslaving as intellectually inferior. Some notable thinkers of the time attributed cultural differences to environment rather than innate capacity, but the growth thereafter of racial and linguistic nationalism tended to stress inherent

differences between peoples or races, while theories of evolution lent intellectual support to the belief that primitive people were less able to reason because they were at an earlier stage of development.³ So long as culture was assumed to be linked to biological descent, and so long as anthropologists were not exposed to close acquaintance with savage societies, it was reasonable to interpret differences of culture as deriving from differences of innate mental capacity.⁴ Even those scholars who continued to think that all mankind had the same basic mental equipment tended to agree that, since a savage was at a more primitive stage of evolution, his mental development would be 'in many respects not beyond that of a young child of a civilised race'.⁵ Theoretical unity was a matter of potential, to be achieved when savages had evolved to the level of civilized men. Meanwhile, although romanticism and the Catholic revival turned the European middle ages into an Age of Faith and Chivalry rather than one of superstition and barbarism, the underlying assumption that post-medieval changes reflected general, *social* changes in ways of thought and levels of rationality still remained unchallenged.⁶

Much of the recent discussion of medieval *mentalités* seems to me to betray the same implicit assumptions and habits of thought—the same *mentalité* in fact—as this long tradition of evolutionary thought.⁷ In doing so it begs some big questions of human culture and psychology.⁸ To start with there is the question of the difference between the content of thought and the processes of thought. It is obvious that societies differ in their beliefs, traditions, values, attitudes. But does that imply a difference in the processes of thought? To put it at its crudest, are individuals in some societies less capable than individuals in other societies of criticizing and reasoning about the content of their thought? Given different premises, do different societies or cultures produce different ways of drawing, or not drawing, inferences from them? Second, there is the question of the difference between the belief system or collective representations of a society and the attitudes, thoughts, and beliefs of individuals. Belief systems are collective, while particular thought processes may be collectively fostered or inhibited, but the actual thinking is done in the minds of individuals, however much and in whatever way their thought is conditioned by their society—and I hope that that statement is not thought to proceed simply from naive British individualism. If the first and most elementary stages of thinking are, perhaps, everywhere much the same, but some societies encourage the further development of cognitive abilities in all or

most of their members better than others do, is the encouragement or stunting absolute or does it represent a tendency which some individuals may somehow resist?

Once one starts to think about the distinction between the content of thought and the processes of thought, and between collective belief systems and the beliefs and thought of individuals, the idea of mentalities becomes more problematic. In the past twenty years the nature and the very existence of differences in processes of thought between different societies or cultures has come under discussion.⁹ Attention has been drawn to the unreality of contrasts between the scientific thought of modern society and the more magical or mystical or less rational thought of 'traditional', preliterate societies. 'People', to quote Gustav Jahoda, 'be they Azande or Americans, can act under the influence of their magical beliefs in some contexts and in a rational-technical manner in others.'¹⁰ Barry Barnes points out that all paradigms involve anomalies, but that, obvious as such anomalies seem to an outsider, 'beliefs in all societies are for the most part passively accepted.'¹¹ Even modern western scientists, it now seems, think in paradigms most of the time. On the other hand, some older descriptions of the unquestioning acceptance of beliefs that the ethnographers found irrational and odd now look as though they were based more on ethnocentric ideology than on evidence.¹² Participant observation has made it much harder for anthropologists to dismiss the people they study as uniformly childlike, credulous, or unreasoning. There seems to be no hard evidence that scepticism is unknown even in the most untouched and traditional societies. *Some* people in such societies seem, even if only privately, to doubt or question practices which reflect generally accepted beliefs, and do so in a way that implies some kind of common-sense rationalism.

Some societies, of course, offer no opportunity to acquire particular mental equipment or develop particular kinds of thought. If you lived in the eighth century you could not become a physicist, though if you were lucky enough to be a monk with a good library, you might exercise your mathematical talents on calculations of Easter. In a society without writing, a whole range of aptitudes may be hard to develop—though writing does not always lead to much cognitive development even among the literate, and illiterate people can still make surprisingly complicated classifications and calculations.¹³ Studies by cross-cultural psychologists suggest that although 'some environments "push" cognitive growth better, earlier and longer than others [what] does not seem to happen is that different cultures produce completely divergent and unrelated modes of

thought.’¹⁴ In all but the simplest societies, moreover, different categories of people pursue different occupations which tend to give or withhold opportunities to develop particular skills, habits of thought, and styles and patterns of reasoning. In relatively large, complex, economically divided, and changing societies like those of the European middle ages, both the content and the processes of thought must have differed widely. Many peasants then were no doubt as poor at syllogisms, flexible and abstract classification, or conservation of quantity as many people in ‘traditional’ and preliterate societies apparently are today—and as some people in modern western societies. Other people in the middle ages were, however, very good indeed at such procedures.¹⁵

I have no wish to play down the importance of recognizing differences in beliefs and values and the social conditioning of ways of thinking. Even if, as an eighth-century monk, your actual mental capacity for thinking rationally and critically about what you had to think about were much the same as it would be in the twentieth, you would have been taught to be more respectful of past authorities and less inclined to try to be original than if you were a university student in the twentieth-century west. But intellectuals in the twentieth-century west are themselves conditioned by the traditional beliefs of their society and the habits of thought inculcated by their professions. If they are trained as historians they may well, for instance, take it for granted that past societies had strange mentalities, assume that those mentalities were more homogeneous than those of modern society, and unconsciously assimilate strange beliefs to strange thought processes. One manifestation of this professional *mentalité* may well be the assumption that most or all people in the middle ages were incapable of atheism or outright scepticism.

Among non-historians—including some scholars interested in religions in general—this assumption still takes the old form of seeing the middle ages as the Age of Faith.¹⁶ Although medievalists now seldom use the expression, the idea of the Age of Faith also survives among us more or less unnoticed, rather like a shabby old chair in our mental sitting-rooms. It is rather rickety, and goodness knows where it came from, but it looks all right now that we have smartened it up with the new loose covers of heresy and ‘popular religion’. All the same, the old chair is still there underneath. It is constructed out of the assumed credulity, the incapacity for atheism, of the medieval mentality. What the people who had popular religion or heresy believed may—we are now told—have been even

odder than what the church taught, but few historians of popular religion seem to wonder whether some medieval people maybe took all religious beliefs with a pinch of salt.¹⁷ Vast quantities of historical imagination and sympathy have been devoted to medieval religious beliefs, whether orthodox, heretical or ‘popular’, but very little has been given to unbelief. Some medievalists probably fear that any discussion of it would involve the historical sin of anachronism.¹⁸ Most of those who mention unbelief do so only to dismiss it.

I offer four examples, from different kinds of books, all written quite recently by undeniably good and respected historians. First, *Le Temps des Cathédrales* (1976), in which Georges Duby described eloquently, with a wealth of splendid images and apt illustrations, a world dominated by religious values. The nature of his subject partly explains his approach: the extraordinary quality and quantity, the power and the scale, of religious art and architecture that survive from the period need some explanation. But may it not be a version of the pathetic fallacy to suppose that the power of monuments of art to impress us is a reflection of the faith of the whole society which produced them? Is it really true to say, as Duby says, that around 1000 ‘the sole function of what we call art—or at least, of what remains of it after a thousand years ...—was to offer unto God the riches of the visible world.. .All great art was sacrificial.’¹⁹ What about jewellery or crowns or armour? There was, Duby thinks, great intellectual development in the twelfth century, but, though he talks about growing secularism, disillusion with the failure of crusades, threats from heresy and from the study of Aristotle, and growing knowledge of the world outside Christendom, he discusses the possibility of unbelief (I think) only twice. The first time is when he has been talking of Frederick II and asks whether one is entitled to speak of his ‘unbelief, or even scepticism’. The answer is apparently No, for, Duby says, Frederick’s ‘faith in Christ was unquestionable’. The other time is when he says that the fourteenth century became declericalized but not less Christian. On the contrary, society then became more Christian as the gospel was disseminated and popularized. Christianity was now fortified against uncertainties: there was more credulity and blinder faith.²⁰ My second example comes from a volume of essays called *Faire Croire* published in 1981, in which J. C. Schmitt argued that belief and unbelief did not mean in the thirteenth century what we think they mean: to theologians unbelief meant wrong belief, not atheism or agnosticism.²¹ Most of the other contributors to the volume also seem to take the line that *faire croire*—making people believe—was not a matter of combating scepticism but of giving instruction

in better or more correct belief and behaviour. Thirdly, Frank Barlow in his life of William Rufus (1983) discussed William's apparently cynical profanity and commented that 'any suggestion that [William II] was a pagan, a rationalist, or even a sceptic is clearly absurd.'²² Finally, Bernard Hamilton in his general survey of *Religion in the Medieval West* (1986) maintained that 'atheism in a theological sense ... seems to have been virtually non-existent', and so was agnosticism.²³ There was plenty of doubt, including about the resurrection of the body, but 'there was a universal belief in the immortality of the soul.'²⁴

I could cite many other examples to show that historians of different schools take much the same line—French *Annalistes* and British empiricists, Marxists and non-Marxists, Catholics, Protestants, and agnostics, historians of politics, of the economy, and of culture and thought. As Guitton pointed out, the kind of assumption that disputants share is a good indicator of a prevailing mentality. But, as I have already argued, prevailing *mentalités* need not be shared by all individuals. G. C. Coulton, for instance, found several examples of medieval unbelief. His robust Protestant anti-clericalism may have discouraged further exploration of the topic for a while but more recently W. L. Wakefield found people in thirteenth-century southern France who doubted or denied orthodox doctrines, not, he thought, because they were Cathars, but out of 'a certain independence of mind and native skepticism.' Alexander Murray has produced convincing evidence of impiety, doubt, and possible scepticism in Italy and France during the thirteenth and fourteenth centuries, and of outright atheism in Italy. John Edwards has produced evidence of a similar range from doubt to full denial of God from late fifteenth-century Spain.²⁵ I salute them all.

What I want to do is not only to widen their arguments by producing a few bits of evidence of unbelief in other areas and times within the middle ages but to consider the subject as an illustration of the problems raised by the concept of social mentality. Before turning to the evidence, however, I want to look more closely at two traditions of writing about medieval history which have discouraged consideration of the possibility of unbelief. The first derives from the nature of the sources. Nearly all our information about medieval religious belief and practice comes from the clergy whose professional mentality made it much easier for them to attribute nonconformity to ignorant error than to thoughtful rejection. The historical tradition does not seem to have made enough allowance for this. Many medieval historians still seem to assume that, whereas intellectuals may have doubted or rejected what they were taught (though some deny even that),

peasants at any rate will believe anything if only they are taught it properly.²⁶ The most charitable view I can take of this intellectual and social snobbery is to assume that it is absorbed from the sources. A second way in which the mentality of historians of medieval religion still seems to reflect that of the medieval clergy is in the trickle-down theory of Christianity:²⁷ that is, the assumption that true Christianity was what the clergy taught, or failed to teach. The historian, however, has no business with True Christianity. It is not our job to evaluate the truth-claims of Christianity or any other religion: they are not a matter of *historical* argument or proof. Whatever the Church or any particular branch of it may believe, its practices and doctrines have changed a lot through the centuries. Christianity did not just trickle down. In the middle ages some doctrines, like purgatory, only became accepted by the authorities long after they seem to have been around, in an unrationalized and inarticulate form, among the laity.²⁸ Some of those who were condemned as heretics seem to have had quite a close knowledge of what look like important parts of Christianity and others had just got muddled about matters like transubstantiation that were very difficult for anyone to get right—whatever right means. In my enquiry into scepticism and unbelief, therefore, I concentrate on the degree of faith, not its orthodoxy. People condemned as heretics who seem to have believed seriously in something which looks as if it could have been derived from Christianity count for me as believers, and so do lay people who indulged in ceremonies and jollifications, even at Christian feasts, that look to us quaintly unchristian. The fact that the clergy condemned such manifestations of ‘popular religion’ as unchristian sorcery or paganism is irrelevant in this context. Words like superstition and sorcery belong to polemic, not to analysis: I have religion, you have superstition, he believes in magic.²⁹

The mentality of the sources and the degree to which it was shared by the whole of society also need more critical consideration in face of the mass of miracle stories which have for centuries been taken as evidence of medieval credulity.³⁰ Most of the collections of miracle stories which were so notable a feature of the eleventh and twelfth centuries were made by monks to promote particular shrines.³¹ Taking their word as evidence of general belief is like taking television commercials as evidence of the public’s preferences among pet-foods. The miracle stories are full of scoffers.³² Like people in commercials who use the wrong soap-powder, they get their come-uppance, but they would not be in the stories if such people had not existed in real life and needed to be converted.

There seems to be no evidence for the curious belief that people then took marvels and prodigies ‘comme une manifestation naturelle et ordinaire’.³³ The words *miraculum* and *mirum*, phrases like *mirabile dictu* and *quod mirum est* belie it. Some more serious writers, moreover, who were not producing advertising copy for their own churches or writing the life of their own local saints, deplored the incredibility of some stories.³⁴ I see no reason to suppose that many ordinary people did not make a common-sense distinction between events that seemed to follow the natural course and those that did not, and that they took some persuading of the clergy’s explanations of the latter. The commonest offences, after that of working on feast-days, for which wicked peasants were smitten by saints in French miracle stories between 950 and 1100 were blasphemy and disbelief.³⁵ Furthermore, if people in the middle ages liked miracle stories that need not imply that they believed them. Some people may have enjoyed the stories just as today I enjoy thrillers without expecting to find incorruptible private eyes walking the mean streets or villains coming out of horse-boxes on country lanes. Some people then may have believed every improbable story they heard, just as some people believe in every new ‘miracle cure’ nowadays: we need not assume that their credulity was part of some blanket *mentalité* of their age without looking at the evidence with at least as much critical attention as the more thoughtful medieval writers gave it. Miracle stories do not prove that more people in the middle ages were credulous than at any other time, though it would certainly illuminate differences in social mentalities to investigate the different things about which people in different societies are credulous and the different ways in which both the credulous and the sceptical express themselves.

Taking the word of clerical sources about the ignorance and credulity of medieval laymen is an old tradition. Another which has diverted attention from the evidence of medieval scepticism is more recent. It comes from the fashion for drawing analogies between medieval Christianity and the religions of other primitive’ societies on the basis of rather vague ideas about *la pensée sauvage*. Fascinating and illuminating as the findings of social anthropology are, more academic education, however, we need to think about the differences between religions before we comb the ethnographic literature for picturesque religious practices to use as analogies.³⁶ It seems clear that there are wide variations both within and between different religions in the emphasis which they put on belief. At one end of the scale is modern western society, where religion is an optional extra for individual commitment. Anyone brought up in our society who wants to study

medieval religion must therefore, as Duby has pointed out, ‘make a determined effort to liberate himself from the pressure of [the] mental attitudes’ induced by his own situation.³⁷ But what mental attitudes are appropriate? Are they those found in societies where there is no tradition of debate about religion and where there are no alternative religious options available? Although individuals in such societies may be rather more critical and sceptical about bits of their collective representations than anthropologists used to assume, and although one could perhaps infer the strength of an individual’s belief from the varying assiduity with which he or she performs ceremonies, it is still fundamentally mistaken to draw analogies between the irrelevance of beliefs in the ‘community religions’ of such societies and the beliefs of medieval Christians.³⁸ That is not because it is improper to compare Christian Europe with heathen lands afar o’er which thick darkness broodeth yet. It is because any religion which has a creed that demands personal affirmation, which hunts heretics, which imposes rules of conduct which are notoriously difficult to fulfil in the conditions of everyday life, and which threatens those who fail to fulfil them with eternal damnation (or a long time in purgatory), inevitably offers choices, however little its authorities may wish it to do so.

Even in the early middle ages, when many within the nominally Christian populations of western Europe had little chance of learning about the religion they were supposed to profess, belief was not totally irrelevant. As early as the ninth century the creed was supposed to be taught to everyone in the Carolingian empire. From the eighth it was supposed, at least in England, to be taught in the vernacular when necessary.³⁹ From the twelfth century there was more literacy and more academic education, more development of doctrines and methods of argument about them, more parish churches, better educated priests, and more religious instruction for the laity. By the thirteenth century everyone was supposed to confess and take communion once a year and was supposed to be taught to repeat the creed. Even if some did so (as a contemporary preacher complained) like magpies, without knowing what they were saying,⁴⁰ the knowledge that a statement of belief, cast in the first person singular, existed, that they were meant to be able to say it, and they were not meant to say it like magpies, may have stimulated people to think about what it meant. The evidence of heresy suggests that some did just that, and it is surely not impossible that the very existence of heresy—the mere rumour of heresies—should have provoked more thorough-going doubts. Perhaps the clergy’s increasing fear of heresy and their tendency to

stress obedience to authority as a reason for belief were not the best ways of winning hearts and minds.⁴¹ By this time, too, medieval Christendom had a well-established learned culture which combined study of an increasing number of books written by non-Christians with deep respect for the authority of the written word. Even some of the unlearned had some knowledge of the New Testament. There is a great deal about belief and unbelief in the New Testament. Belief in those circumstances cannot have been as apparently irrelevant as it is in some other religions. Many medieval peasants—even some clergy—may have lived in a state of theological innocence like Clifford Geertz's Balians or Ernest Gellner's tribesmen of the Atlas.⁴² They did not need to agonize about their faith and they had not got the philosophical expertise to do so very effectively. Furthermore theirs was an authoritarian society and so any reluctance to challenge religious authority is not surprising. But that does not necessarily mean that everyone believed equally. When human beings are presented with choices they take them variously. In societies where they appear not to be making choices it may be because circumstances do not make those particular choices available. But Christianity, even medieval Christianity, tends to invite a modicum of personal commitment and therefore lays itself open to conscious, if often unacknowledged, doubt.

Since most people in any society probably accept its prevailing beliefs, and most dissidents in a persecuting society will keep their heads down, it is not surprising that medieval references to outright unbelief or even serious doubt about central tenets of the Christian faith are not very common.⁴³ Nevertheless, I can produce a couple of cases of outright denial of the existence of God beyond those already cited by Wakefield, Murray, and Edwards. One woman from a village near Montaillou in the early fourteenth century bewailed her inability to believe in God—as well she might.⁴⁴ Thomas Walsingham says that some people blamed the Peasants' Revolt of 1381 on the sins of lords, some of whom were said to believe, not only that there was no life after death, but that there was no God and that the sacrament of the altar was nothing.⁴⁵ Doubt or denial of immortality seems to be more often recorded than direct denial of God and may be just as serious in its implications. 'For if the dead rise not, then is not Christ raised: and if Christ be not raised, your faith is vain.'⁴⁶ King Amalric I of Jerusalem told William of Tyre of what I suspect were his own difficulties in believing in the resurrection—though, like many people confessing to

embarrassing problems, he presented them as not actually his own. William was able to set the king's mind at rest, but then that is what one would expect in a story told by an archbishop about himself and the king he served.⁴⁷ Also in the twelfth century, the French monk Hélinant referred disapprovingly to those who believed that there was no other world and no more life after death for men than for animals.⁴⁸ Similar thorough-going denials of immortality are said to have been common in early fourteenth-century Italy. They are mentioned in southern France in the thirteenth century, in Spain in the fifteenth, and in England, apart from the fourteenth-century rumour mentioned by Thomas Walsingham, also in the fifteenth.⁴⁹ Among other types of scepticism mentioned are assertions that the gospels were inventions like any other stories and that crops grow, not because God makes them, but because of the nature of seed and soil, helped by man's labour.⁵⁰ Transubstantiation seems to have aroused fairly widespread doubt: one thirteenth-century preacher admitted that it was hard to believe and it was obviously a stumbling block for many who were accused of heresy.⁵¹ It may be that the importance attached to it by church officials, like their emphasis on obedience to authority, actually provoked some to doubt, and then to doubt other doctrines too.

Many more people must have suffered from doubts than ever got into trouble for denying dogma. Jean de Joinville seems to have needed fortification by his king against some kind of unbelief. St Louis' argument was a nice one: since Joinville took his mother's word about the identity of his father and believed it without question he ought also to believe on the word of the apostles all the articles of faith which he heard sung on Sunday in the creed. Strong as Louis' own faith was, moreover, he still thought that no layman ought to risk arguing with Jews: argument might shake the faith of anyone who was not a skilled theologian.⁵² He was not alone in fearing conversions to Judaism: a young thirteenth-century Dominican worried whether Christians or Jews or pagans were right, while ecclesiastical legislation of the same period suggests that service in Jewish households was thought to be liable to lead simple minds astray.⁵³ This fear of the Jews reminds us that an alternative religion was available at least to the small part of the population that met and talked with Jews, and that, although Jews were hated and feared, their religion nonetheless apparently had attractions. Conversions from Judaism also show variation in belief: some Jews were more sincerely converted than others. The degree of belief varied.

Many preachers stressed the need for faith. In the thirteenth century one of them, like King Louis, explicitly warned against wanting to enquire into its roots and make it secure by reasoning.⁵⁴ According to Innocent IV, all the laity needed to believe was that God exists and rewards the good. They should then believe the rest of the articles of faith implicitly: that is, they should believe that whatever the Catholic Church believes is true. The poorer lower clergy needed to believe just a little more, namely the real presence at the sacrament of the altar, but it seems clear that Innocent regarded implicit and uncomprehending faith as a concession and a safeguard for the supposedly simple-minded.⁵⁵ More was expected of theologians. Schmitt, in the study in *Faire Croire* that I mentioned earlier, adduces as evidence that theologians did not take unbelief seriously the way that they described those who denied the existence of God as mad.⁵⁶ If they had, one might be tempted to reply: But they would, wouldn't they? In fact, however, as his footnote says, Aquinas described unbelievers as *stulti et superbi*, which does not imply that he regarded unbelief as unenvisageable for the sane. The stupid and proud are not mad, and, like the poor, they are always with us. Medieval scholars, moreover, went to some trouble to work out theologies of the existence of God. After all, the ontological argument was actually invented at the very beginning of the great period of medieval scholarship. Although Anselm and his successors worried as much or more about the emotional commitment which ought to follow intellectual assent as about the assent itself, it is hard to see how one can rationally maintain that they were unaware of the possibility of unbelief or unworried about it. They clearly knew about unbelief and regarded it as dangerous, even before the thirteenth century brought so much more of Aristotle, as well as other classical pagans and some Jewish and Islamic philosophers, to their notice.

When people doubted or disbelieved they naturally did so on different grounds from modern agnostics or atheists. Unbelief, like belief, is socially conditioned. Medieval sceptics and atheists were moulded and conditioned both by the Christianity they questioned or denied and by the other information that was available to them.⁵⁷ That does not make them any the less sceptical or unbelieving. If medieval people said that they, or others, did not believe in important doctrines of Christianity, then unbelief was not impossible for them even if their grounds for doubting were not the same as those of, for instance, Lucien Febvre. People who were accused of all the various types and levels of unbelief or doubt included nobles, townsmen, and peasants, as well as secular and

religious clergy. Some seem to have been cynical or casual, others look more serious, but there does not seem to me to be any significant correlation between social status or formal education on the one hand and degree of rationality on the other. One Montaillou woman, when asked where she got her doubts about hell and the resurrection from, said that she got them from no one: she thought of them for herself.⁵⁸ Even medieval peasants—even peasant women—could think. It may be objected either that some of the evidence I have cited is merely hearsay or that examples from the later middle ages, particularly from Italy, reflect the growth of ‘modern’ attitudes. On the first point, contemporary rumours show at least that the idea of unbelief is not anachronistic. On the second, leaving aside the circularity of arguments about modernization, the evidence is best where persecution was active and records of it were preserved. Given that there was persecution, given the professional difficulties that the clergy might face if they admitted to serious doubts, it seems likely that many people who felt doubts or worse did so, as Murray puts it, ‘without getting to the point of stubborn challenge to orthodoxy’, continuing instead to live ‘in a chronic state of double-think; the logical instability of their condition being buttressed by the fact that many other people lived in it too.’⁵⁹

Once it is accepted that doubt and unbelief were possible in the middle ages, the much more generally accepted evidence of impiety, indifference, even of anticlericalism, may need reassessment. Clearly, none of these need imply scepticism, let alone atheism, but I do not see how we can be sure that in some cases they did not. Neither William Rufus nor Frederick II need have been an unbeliever, let alone a consistent one throughout his life, but, *pace* Barlow and Duby respectively, either may have been. Henry II of England is another possible sceptic. Although he respected goodness and holiness in one bishop at least, his warning to the pope that he would rather become a Moslem (*Noradini citius sequeretur errores et profanae religionis iniret consortium*) than have Thomas Becket as archbishop of Canterbury any longer, however lightly made and however little he knew of Islam, suggests that he took his Christianity in a rather detached and carefree way.⁶⁰ It may be suggested that before the twelfth century most of the laity were too ignorant about Christianity to be capable of rejecting it seriously. Poor information, however, though the initiated may think it makes rejection futile, does not actually preclude rejection. Lay religion was certainly less belief-oriented before the twelfth century than later but degrees of piety may

sometimes, nonetheless, have reflected degrees of faith. Some of the nobles who were condemned as enemies of the Church in the tenth and eleventh centuries may have been sceptical, as well as contemptuous, of what they knew of the Church's teaching, even if others were pious patrons of their own family monasteries and attacked rival establishments only for sound political reasons. There are several references to an opinion generally held in different parts of eleventh-century France that monasticism provided a useful refuge for the sick or disabled: knights would not become monks while they were still in good fighting trim.⁶¹ A good many nobles who made donations to churches found them on second thoughts too costly and delayed their implementation for long periods.⁶² Piety, in other words, ebbed and flowed, stronger in times of illness or crisis than when the world was comfortable. Yet this is the period of which Duby says that knights and peasants gave what they had willingly to monasteries because they feared death and judgement and which Peter Brown describes as having a 'tremendous sense of the intimacy and adjacency of the holy'.⁶³ I suggest that these two distinguished historians are lavishing their historical imagination on a social mentality of which the character and prevalence is yet to be fully established.

Later in the middle ages we have evidence that some people in France, for instance, did not go to church for years at a time, and that others behaved in a way that suggests that they did so chiefly in order to meet and gossip and hear the news.⁶⁴ Some historians hold that this reflects the Church's failure to get its message across,⁶⁵ but in view of the evidence that lay people were capable of unbelief, it is not impossible that some who gossiped or played dice in church, or never went there at all, did so because they rejected the message. Many of those who rejected church teaching were heretics rather than unbelievers but, as Hudson, as well as Edwards, Murray, and Wakefield have shown, some who were prosecuted for heresy were probably sceptics. Some look like casual cynics—what J. A. F. Thomson has called 'the loose speaker [or] the tavern unbeliever',⁶⁶ but colloquial expression of opinions, even their expression in taverns, need not invariably mean that the opinions were unconsidered or irrational. They may have arisen, as Wakefield put it, 'from the cogitation of men and women searching for explanations that accorded with the realities of the life in which they were enmeshed.'⁶⁷

None of this is intended to deny that most people probably accepted the Church's teachings without agonizing over them. The Church was in every sense

established. Its teachings, however misunderstood or adapted to secular moralities, permeated life. To judge from the doubts some of them expressed, peasants and poor townspeople sometimes knew a fair amount about Christianity. We have no reason to believe that most of them were out of reach of the Church's teaching. Some were,⁶⁸ but, hard as it is to get at the views of those at the bottom of society, there is not much evidence that pagan survivals, magical beliefs, or what has been called a 'common substratum of European folk-lore'⁶⁹ formed a genuinely alternative belief-system or ideology to which peasants in general gave more adherence than they did to the Church. Beyond the conventional piety of the majority, moreover, there must have been genuine and fervent piety—perhaps as much among the laity as among the clergy. It was, by and large, the piety of lay people that covered Europe with a network of parishes and that built and embellished parish churches. Lay people found release from their sense of guilt in pilgrimages, and hope in the doctrine of purgatory which they themselves developed. They found forms of affective devotion in brotherhoods and at shrines.⁷⁰ Parish churches and local fraternities depended on the support of a wide range of society and perhaps particularly of those who were not qualified to become monks. Monasteries, in any case, were not uniformly exclusive: their proliferation, like the creation of orders of friars, testifies to the growth of lay piety. It was laymen—and from the twelfth century generally adult laymen—who became monks or friars. Many of them did so because they were already pious and yearned to fulfil their piety in the best way they knew. Motives of course were mixed then as they always are. There could be many motives for going on pilgrimage or crusade, for founding and endowing monasteries, or even for becoming a monk, but it is not part of my argument that all or even most were worldly. Much pious behaviour must have reflected real faith.⁷¹

Statistics are impossible. Whether there were a dozen or a hundred humble St Louis's for every humble William Rufus is impossible to say, but at least from William's lifetime on the pressures of convention were against him and for Louis. The open expression of unbelief could be dangerous and took courage, but on the other hand faith could be difficult. Like piety it probably ebbed and flowed. It must often have been strongest in moments of crisis (no atheists in the trenches) and on deathbeds, though even respectable people on their deathbeds could express doubts about some parts of Church teaching.⁷² There is, in short, considerable evidence that religion was not just a matter of social convention and ceremony, that some people believed in Christianity less than others, and that this

was not simply because of ignorance or the peasantry's preference for unchristian magic. On the contrary the evidence suggests that some people found Christianity, or parts of it, hard to believe in, and that some may not have tried very hard.

If it is agreed that sceptics and unbelievers were to be found, in however small a minority, in several countries and in all the centuries for which we have remotely adequate evidence from which to detect them, then the common assumption that religious scepticism was somehow foreign to the medieval mind looks like another of those 'unexpressed and fundamental assumptions about the nature of European society' to which R. I. Moore has recently drawn attention as being historically unfounded.⁷³ I submit that one thing which has helped to preserve this particular assumption, in defiance of evidence against it, is the carefree way in which the idea of social mentalities has been used. Historians may well feel that they cannot engage in arguments about differences in thought processes or evaluate the relative merits of cognitive relativism, universalism, intellectualism, symbolism, and so forth. But we need to be aware of the arguments. It is rash to base studies of mentalities on an unargued premise that people in different societies or cultures are known to have fundamentally different thought processes. They may have, but it is not established that they do. So long as we start from the assumption that strange beliefs imply strange and uncritical processes of thought, and that mentalities arise from whole societies like miasma from a swamp, we have no hope of understanding how and why people in different societies, and in different sections of different societies, really do develop different ideas and ways of thinking. It is probably a mistake to start with whole societies. It is too difficult to define their boundaries in time and space and to identify their relevant characteristics. Recent work by medievalists suggest that differences in the content and processes of thought can better be approached through seeing how particular groups of people develop quite specific elements of thought and on the methods of transmission both within the group and from it to society at large.⁷⁴

Whatever aspect of historical mentalities is studied historical imagination will be needed. But one also needs evidence, evidence which must be critically assessed and rationally argued, whether or not it fits one's assumptions and hypotheses. Before we use our imaginations to explain a phenomenon we must try to identify the phenomenon as exactly as possible. If the religious faith and piety of the middle ages were not the product of a mentality by which 'society as a whole instinctively recoiled' from certain issues,⁷⁵ then the explanations and

understanding of them need to be different. Explanations and descriptions, however, vivid and appealing, which ignore this must be wrong. In fact the more appealing and vivid they are the more they may mislead. We cannot just sail off into the wide blue yonder of explaining religious attitudes that may not have been general on the ground of mentalities that may not have been universal. The evidence of scepticism produced here is not extensive, but even one piece would be enough to falsify the hypothesis that it was foreign to ‘the medieval mind.’ Everyone in the middle ages had rather different ideas from ours (whoever ‘we’ are with our supposedly rational, secular, and uniform ways of thought) about a great many topics—politics, social relations, and the world in general, as well as about God. But that need not mean that their cognitive processes, their ways of thinking, were in themselves either more uniform than ours or entirely strange to us. If they were entirely strange, how could we write about them and expound them at all? Evidence of indifference or scepticism, whether among intellectuals, nobles, or peasants, cannot be convincingly explained away on the ground of *a priori* ideas about medieval mentality that must themselves depend on the absence of evidence of indifference or scepticism. Medieval credulity, whether applauded as faith or patronized as superstition and ‘popular religion’, may, with good evidence and argument, become the conclusion of a discussion. It cannot be a premise. And nor can any other aspect of the ‘mentality’ of any society.

AFTERTHOUGHTS

G.E.R. Lloyd, *Demystifying Mentalities* (Cambridge, 1990) directs some of the same arguments, with others, to the use of the concept of mentalities as applied to ancient Greek, early Chinese, and Indian science.

p. 24, n. 13:1 should also have cited B. Street, *Literacy in Theory and Practice* (Cambridge, 1984).

p. 32, n. 42: Also: M. Carrithers, *Why Humans have Cultures* (Oxford, 1992), 190-2.

p. 33: The Londoner who was said in 1254 to have abandoned the Christian faith (and to whom Professor Donald Logan has drawn my attention) may be another example, though he might, for instance, have been converted to Judaism: *Calendar of Patent Rolls, 1247-58*, p. 342.

¹ Among more recent discussions, which refer to earlier ones: P. Burke, ‘The History of Mentalities in Great Britain’, *Tijdschrift voor Geschiedenis*, xciii (1980), 529–40; G. Tellenbach, ‘Mentalität’, in *Ideologie und Herrschaft im Mittelalter*, ed. M. Kernes (Darmstadt, 1982); A. Burgière, ‘La Notion de “Mentalités”

chez Marc Bloch et Lucien Febvre', *Revue de Synthèse*, civ (1983), 333–48; D. L. d'Avray, *The Preaching of the Friars* (Oxford, 1985), 7–11, 238–40; A. Gurevich, *Categories of Medieval Culture*, trans. G. L. Campbell (1985), chap. 1; *Mentalitäten im Mittelalter*, ed. F. Graus (Vorträge und Forschungen, 35, 1987), especially the essays of F. Graus and R. Schneider; R. Chartier, *Cultural History*, trans. L. G. Cochrane (Oxford, 1988), 19–52; A. Boureau, 'Propositions pour une histoire restreinte des mentalités', *Annales E.S.C.* 44 (1989), 1491–1504. Among many people who have discussed the subject with me I should like to thank in particular the Early Medieval Seminar at the Institute of Historical Research, the Goldsmiths College Interdisc Conference 1988, Professor W. C. Jordan, and Dr. D. L. d'Avray.

² J. M. P. Guitton, *Le Temps et L'Éternité chez Plotin et Saint Augustin* (Paris, 1933), xii (as translated by D. L. d'Avray, 239). The rest of his discussion (xi–xxiv) is full of interest. Cf. R. G. Collingwood, *Philosophical Essays* (Oxford, 1940), ii. 21–77. L. Capéran used the word *mentalité* in *Le Problème du salut des infidèles: essai historique* (Paris, 1912), 196–7, but not, apparently, in its collective sense. For its novelty in Proust's early twentieth-century Paris: Tellenbach, 385–407, at 385.

³ Though the actual word primitive is not recorded in this sense before 1903: OED (2nd edn 1989), xii, 484, 485.

⁴ R. L. Meek, *Social Science and the Ignoble Savage* (Cambridge, 1976), M. Harris, *The Rise of Anthropological Theory* (1969); G. W. Stocking, *Race, Culture and Evolution* (1982); M. Cole and S. Scribner, *Culture and Thought* (New York, 1974), 11–33; G. Jahoda, *Psychology and Anthropology* (1982), 9–29.

⁵ E. B. Tylor, quoted by Jahoda, 13; cf. Jahoda, 170 and n. 5 and, on a modern argument to the same effect, *ibid.* 223–38.

⁶ A. Chandler, *A Dream of order* (1970), 1–11, 17–25, 125–34; K. Kumar, *Prophecy and Progress* (Harmondsworth, 1978), 30–4, 79–83, 95–102; J. van Engen, 'The Christian Middle Ages as an Historiographical Problem', *American Historical Review*, xci (1986), 519–52. For the application of the general evolutionary paradigm to the middle ages by an anthropologist: E.B. Tylor, *Primitive Culture* (1871), i. 138–9, ii. 450.

⁷ Guitton, xiii, refers to 'cette "évolution" indéfinie, qui fait office à la fois de causalité et de finalité'. His own reference to categories and values as innate (p. xii) illustrates his point. For a recent explicit analogy between the thought of 'les hommes du Moyen Age' and that of 'les primitifs': J. Le Goff, *La Civilisation de l'occident médiévale* (Paris, 1977), 18–19.

⁸ Though see Christina Lerner, *The Thinking Peasant* (Glasgow, 1982), 75–91 *et passim*.

⁹ Among other discussions: *Modes of Thought*, ed. R. Horton and R. Finnegan (1973); Cole and Scribner, *Culture and Thought*; *Rationality and Relativism*, ed. M. Hollis and S. Lukes (Oxford, 1982); Jahoda, 167–238; C. Geertz, 'Anti-anti-relativism', *American Anthropologist*, 86 (1984), 263–78; I. C. Jarvie, *Rationality and relativism* (1984); *Reason and Morality*, ed. J. Overing (1985); H. Gardner, *The Mind's New Science* (New York, 1987), esp. c. 8; P. K. Bock, *Rethinking Psychological Anthropology* (New York, 1988); M. Bloch, *Ritual, History and Power* (1989), 106–36.

¹⁰ Jahoda, 181.

¹¹ B. Barnes, 'The comparison of Belief-systems: Anomaly versus Falsehood', in *Modes of Thought*, 182–98, at 188, 192.

¹² J.D. Y. Peel, 'Understanding Alien Belief-systems', *British Journal of Sociology*, xx (1969), 69–84; *Modes of Thought*, 'Introduction', 37–42; S.J. Tambiah, 'Form and Meaning of Magical Acts', in *ibid.*, 199–229; A. Salmond, 'Maori Epistemology' in *Reason and Morality*, 240–63; Jahoda, 167–88; M. Douglas, *Implicit Meanings* (1975), 7382.

¹³ e.g. J. Goody, *Domestication of the Savage Mind* (Cambridge, 1977); W. Ong, *Orality and Literacy* (1982).

- 14 P. M. Greenfield and J. S. Bruner, quoted in Cole and Scribner, 24–5.
- 15 A. R. Luria, *Cognitive Development: its Cultural and Social Foundations*, trans. M. Lopez-Morillas and L. Solotaroff (1974); Cole and Scribner, 101–6, 148–68; Jahoda, 177, 227–38.
- 16 e.g. A. Macintyre, ‘Understanding religion and believing’ in *Rationality*, ed. B. Wilson, (1970), 62–77, at 73–
- 17 For an illustration of views of medieval ‘popular religion’ as they have percolated through to non-medievalists: N. Abercrombie and others, *The Dominant Ideology Thesis* (1980), 65–70.
- 18 L. Febvre, *Le Problème de l’incroyance au xvi^e siècle* (Paris, 1949), 6. The book’s influence probably extends to those who have not read it. But cf. M. Hunter, ‘The Problem of “Atheism” in early modern England’, *Supra*, ser. 5, 35 (1985), 135–157.
- 19 *Age of the cathedrals*, trans. E. Leveux and B. Thompson (1981), 9; French edn. (*Le Temps des Cathédrales*) Paris, 1976.
- 20 *Age of the cathedrals*, 179, 221.
- 21 J. C. Schmitt, ‘Le bon usage du “Credo”’, *Faire Croire* (Collection de l’École française de Rome, 51, 1981), 337–61.
- 22 F. Barlow, *William Rufus* (1983), 113.
- 23 B. Hamilton, *Religion in the Medieval West* (1986), 190.
- 24 *Ibid.* 191, though he notes one case on p. 190.
- 25 G. C. Coulton, ‘The Plain Man’s Religion in the Middle Ages’ in *Ten Medieval Studies* (Cambridge, 1930), 189–200; W. L. Wakefield, ‘Some unorthodox Popular Ideas of the Thirteenth Century’, *Medievalia et Humanistica*, N.S. iv (1973), 25–35; A. Murray, ‘Piety and Impiety in thirteenth-century Italy’, *Studies in Church History*, 8 (1972), 83–106; *idem*, ‘Confession as a Historical Source in the Thirteenth Century’, in *The Writing of History in the Middle Ages*, ed. R. H. C. Davis and J. M. Wallace-Hadrill (Oxford, 1981), 275–322; *idem*, ‘The Epicureans’, in *Intellectuals and Writers in Fourteenth-century Europe*, ed. P. Boitani (Cambridge, 1986), 138–63; J. Edwards, ‘Religious Faith and Doubt in Late Medieval Spain: Soria c. 1450–1500’, *Past & Present*, 120 (1988), 3–25. Gavin Langmuir, *History, Religion, and Antisemitism and Towards a Definition of Antisemitism* (both Berkeley/Los Angeles, 1990), which appeared after my paper was delivered, contain important discussions of the evidence of medieval religious doubt and its nature.
- 26 e.g. G. Le Bras, ‘Déchristianisation: mot fallacieux’, *Social Compass*, x (1963), 44552, at 449; J. Delumeau, *Le Catholicisme entre Luther et Voltaire* (Paris, 1971), 227–92. For a notable exception to this kind of intellectual snobbery in the middle ages: Reginald Pecock, *Reule of Crysten Religioun* (Early English Text Society, 171 (1927), 20, 38, 93
- 27 For discussions of dangers of ‘two-tier models’ of popular religion, e.g. N. Z. Davis, ‘Some Tasks and Themes in the Study of Popular Religion’, in *The Pursuit of Holiness*, ed. C. Trinkaus (Leiden, 1974), 307–36 and Davis, *Society and Culture in Early Modern France* (1975); J.C. Schmitt, ‘“Religion populaire” et culture folklorique’, *Annales E.S.C.*, xxxi (1976), 941–53; P. Zambelli, ‘Uno, due, tre mille Menocchio?’, *Archivio Storico Italiano*, cxxxvii (1979), 51–90 especially at 62; P. R.L. Brown, *The Cult of the Saints* (1981), 14–20; T. F. Tentler, ‘Seventeen Authors in Search of Two Religious Cultures’, *Catholic Historical Review*, 71 (1985), 248–58; Chartier, *Cultural History*, 37–40.
- 28 A. J. Gurevich, ‘Popular and Scholarly Medieval Scholarly Traditions’; cf. R. W. Southern, ‘Between heaven and hell’, *Times Literary Supplement* (1982), 651–2.
- 29 On the distinction, see e.g. Thomas, *Religion and the Decline of Magic*, 25–50, 74–7, 636–40; H. Geertz and K. Thomas, ‘An Anthropology of Religion and Magic’, *Journal of Interdisciplinary History*, vi (1975), 71–109; I. C. Jarvie, *Rationality and Relativism* (1984), 51

- ³⁰ See F. Graus, *Volk Herrscher und Heiliger* (Prague, 1965), 39–59, 451–5.
- ³¹ P. R. Morison, 'The Miraculous and French Society, c. 950–1100' (Oxford D. Phil, thesis, 1983), 46–50, 66–87, 171–, 239–43.
- ³² *Ibid.* 66–9.
- ³³ P. Rousset, 'Le Sens du merveilleux à l'Époque Féodale', *Le Moyen Age*, 62 (1956), 25–37, at 26; cf. Graus, 48; A. Gurevich, *Medieval Popular Culture*, trans. J. M. Bak and P. A. Hollingsworth (Cambridge, 1988), 205; B. Ward, *Miracles and the Medieval Mind* (1982) 2, 33 but cf. 205. Gerald of Wales made a distinction between miracles and marvels: marvels only *seemed* contrary to nature: R. Bartlett, *Gerald of Wales* (Oxford, 1982), 105–9.
- ³⁴ Though not necessarily because they were themselves totally 'rational': R. I. Moore, 'Guibert of Nogent and his World', in *Studies in Medieval History presented to R.H.C. Davis* H. Mayr-Harting and R.I. Moore (1985), 107–18, also citing some earlier discussions.
- ³⁵ Morison, 'The Miraculous and French Society', 145–6.
- ³⁶ On the dangers of analogies: E. P. Thompson, 'Anthropology and the Discipline of Historical Context', *Midland History*, i, no. 3 (1972), 41–55.
- ³⁷ *The Chivalrous Society* (1977), 13 (or *Annales E.S.C.*, 26 (1971), 1–13, at 12).
- ³⁸ M. Ruel, 'Christians as Believers', in *Religious Organization and Religious Experience*, ed. J. Davis (1982), 9–32; B. Wilson, *Religion in Sociological Perspective* (Oxford, 1982). For beliefs in other religions see, in addition to works cited in nn. 4, 9, 11–12, Collingwood, *Philosophical Essays*, ii. 185–227; E. Gellner, *Saints of the Atlas* (1969), 111–15; C. O. Frake, 'A structural description of Subanon "religious behavior"', in S.A. Taylor ed. *Cognitive Anthropology* (New York, 1969), 470–87; C. Geertz, *The interpretation of cultures* (1975), 87–125, 170–89; cf. idem, *Negara* (Princeton, 1980), 194–5; R. Thapar, 'Imagined Religious Communities', *Modern Asian Studies*, xxiii (1989), 209–31.
- ³⁹ *M. G.H. Capitularia Regum Francorum*, i, ed. A. Boretius (Berlin, 1883), no. 120 (c. 3); Theodulf of Orleans, 'De ordine Baptismi', c. vii: *Patrologia Latina*, ed. J. P. Migne, cv, col. 227–8; Aelfric, *Homilies*, ed. B. Thorpe (*Homilies of the Anglo-Saxon Church*, pt. 1: 1844–6), ii. 596–8; *The Homilies of Wulfstan*, ed. D. Bethurum (Oxford, 1957), 157–65, 299–302.
- ⁴⁰ N. Bériou, 'L'Art de Convaincre dans la Prédication de Ranulphe d'Homblières' in *Faire Croire* (Collection de l'École française de Rome, 51, 1981), 39–65, at 53.
- ⁴¹ The stress on authority: 'Bériou, L'Art de Convaincre'; J.-C. Schmitt, 'Le Bon Usage du "Credo"', also in *Faire Croire*, 337–61, at 354–8; Murray, 'Religion among the Poor', 298.
- ⁴² Geertz, *The Interpretation of Cultures*, 177 and *Negara* (Princeton, 1980), 194–5; Gellner, *Saints of the Atlas*, 114–15.
- ⁴³ J. G. A. Gaskin ed. *Varieties of Unbelief* (1989) discusses the different forms of unbelief usefully. Several of his forms can be found in the middle ages even if (p. 10) 'no significant or influential literary unbelief can be identified' then.
- ⁴⁴ P. Dronke, *Women writers of the middle ages* (Cambridge, 1984), 267, 271 and cf. 204–15; as Dronke points out, E. Le Roy Ladurie (Montaillou (Paris, 1975), 474, 491–2, 532–4) conflates Aude Faure's disbelief in God with her disbelief in transubstantiation. Although Le Roy Ladurie discusses belief, denies the 'immense appétit du divin' which Febvre (*Problème*, 528–35) attributed to the middle ages, and ostensibly plays down the element of magic in medieval beliefs (*ibid.* 465–8, 579–84), the book as a whole seems to stress what is strange and 'folklorique' about the people of Montaillou (and their sex lives) rather than their rationality: cf. L. E. Boyle, 'Montaillou Revisited' in *Pathways to Peasants*, ed. J. A. Raftis (Toronto, 1981), 119–40, at 124, 126–7.

- ⁴⁵ Thomas Walsingham, *Historia Anglicana* (Rolls series, 28, 1864) ii. 12. Murray, 'Epicureans', Wakefield, and Edwards all cite examples of similarly sweeping unbelief.
- ⁴⁶ Corinthians, xv. 16–17.
- ⁴⁷ *Recueils des Historiens des Croisades: Historiens Occidentaux*, i (Paris, 1841), 887–8 (XIX. 3)
- ⁴⁸ Hélinant, *Les Vers de la Mort*, ed. F. Wulff and E. Walberg (Paris: Société des Anciens Textes Français, 1905), 32–3 (strophes xxxiv–xxxv) and cf. p. xxxiii.
- ⁴⁹ Wakefield, 28, 31; Murray, 'Epicureans', 143; Walsingham, *Historia Anglicana*, ii. 12; A.M. Hudson, *The Premature Reformation* (Oxford, 1988), 385; Edwards, 13–16, 21, 25
- ⁵⁰ Murray, 'The Epicureans', 150; Wakefield, 27, 32.
- ⁵¹ Murray, 'Piety and Impiety', 98; J. A. F. Thomson, *The Later Lollards* (Oxford, 1965) e.g. 68–9, 74, 246–7.
- ⁵² Jean de Joinville, *Histoire de Saint Louis*, ed. N. de Wailly (Paris, 1874), 15–20.
- ⁵³ A. Murray, 'Confession as a Historical Source', 296; *Corpus Iuris Canonici*, ed. A. Friedberg (Leipzig, 1833–9), col. 772–6. For the attractions of Judaism in the ninth century: C. Edwards, 'Tohuwabohu: the Wessobrunner Gebet and its analogues', *Medium Aevum* 53 (1984), 263–81, at 268–9.
- ⁵⁴ Bériou, 'L'Art de Convaincre', 48.
- ⁵⁵ Quoted by van Engen, 'The Christian Middle Ages', n. 91. Cf the different degrees of faith demanded in the fifteenth century by Reginald Pecock and the rationalizing cast of his arguments: E. F. Jacob, 'Reginald Pecock, Bishop of Chichester', *Proc. British Academy*, xxxvii (1951), 121–53.
- ⁵⁶ Schmitt, 'Le Bon Usage du "Credo"', 338–9.
- ⁵⁷ A. M. Bowes, 'Atheism in a religious Society' in *Religious Organization and Religious Experience*, 33–49. Febvre's argument in *Le Problème de l'incroyance* seems to be that sixteenth-century intellectuals had not the intellectual equipment for unbelief of twentieth-century ones.
- ⁵⁸ Dronke, *Women writers*, 267.
- ⁵⁹ A. Murray, *Reason and Society in the Middle Ages* (Oxford, 1978), 8.
- ⁶⁰ *Materials for the history of Thomas Becket* (Rolls series, 1875–85), vi. 106. Cf. other sources cited by W. L. Warren, *Henry II* (1973), 211.
- ⁶¹ Customs of Cluny in *Patrologia Latina*, 149, cols. 625–6; G. Sitwell ed. *St Odo of Cluny* (1958), 9–11, 97–8; J. Armitage Robinson, *Gilbert Crispin* (Cambridge, 1911), 89, 94–5
- ⁶² C. B. Bouchard, *Sword, Miter, and Cloister* (1987), 227–46.
- ⁶³ G. Duby, *L'Europe au Moyen Age: Art Roman, Art Gothique* (Paris, 1979), 43; Brown, 'Society and the Supernatural', 141. Cf e.g. P. Geary, 'Humiliation of Saints', in *Saints and their Cults*, ed. S. Wilson (Cambridge, 1983), 123–40, at 133.
- ⁶⁴ P. Adam, *La Vie Paroissiale en France au xiv^e Siècle* (Paris, 1964), 246–76.
- ⁶⁵ e.g. J. Toussaert, *Le Sentiment Religieux en Flandre à la fin du Moyen-Age* (Paris, 1960), 117–22, 158–60, 368–71, 595–604; J. Delumeau, *Le Catholicisme*, 227–55; Le Bras, 'Déchristianisation'; cf. van Engen, 'The Christian Middle Ages', 521–2.
- ⁶⁶ Thomson, *Later Lollards*, 241–2. For examples of accusations of heresy which may reflect scepticism, e.g. *ibid* 248 and Hudson, *Premature Reformation*, 165–8, 384–5.
- ⁶⁷ Wakefield, 33.
- ⁶⁸ e.g. the story of master Guncalinus: d'Avray, 40–1.

- ⁶⁹ The phrase comes from D. Martin, 'The Secularization Question', *Theology*, lxxvi (1973), 81–7, at 84.
- ⁷⁰ S. Reynolds, *Kingdoms and Communities in Western Europe* (Oxford, 1984), 67–90; G. Rosser, 'Communities of Parish and Guild in the late Middle Ages' in *Parish, Church and People* ed. S.J. Wright (1988), 29–55.
- ⁷¹ On noble motives for benefactions: C. B. Bouchard, *Sword, Miter, and Cloister*; E. Mason, 'Timeo Barones et Dona Ferentes', *Studies in Church History*, 15 (1978), 61–75; J-Howe, 'The Nobility's Reform of the Medieval Church', *American Hist. Review*, xciii (1988), 317–39.
- ⁷² *L-Histoire de Guillaume le Maréchal* (Paris, 1891–1901), lines 18495–6. There seems little evidence that William's piety was more than conventional, though see G. Duby, *William Marshal* (1986), 12–13.
- ⁷³ R. I. Moore, *The Formation of a Persecuting Society* (Oxford, 1987), 4.
- ⁷⁴ e.g. d'Avray, *Preaching of the Friars*; E. Peters, *Torture* (Oxford, 1985); R. Bartlett, *Trial by Fire and Water* (Oxford, 1986); Moore, *Formation of a Persecuting Society*.
- ⁷⁵ Hamilton, 196, 197.

II

MEDIEVAL ORIGINES GENTIUM AND THE COMMUNITY OF THE REALM*

I

The stories which were told in the middle ages about the descent of many of the peoples of western Christendom from peoples in the ancient world are well known to medieval historians. Their significance for the history of political ideas does not, however, seem to have been generally appreciated. It is the contention of this paper that, from the sixth to the fourteenth centuries at least, peoples (*gentes*, *populi*, *nationes*)¹ were normally thought of as social and political communities and that myths of the common origin of a people served to increase or express its sense of solidarity. Before discussing the political functions of the myths, however, it is necessary to sketch their main characteristics.

Medieval myths of descent were recorded in a great many works of many dates and kinds with uncounted variations of form and content.² Considering their own propensity to threefold genealogies, it is tempting to start by classifying them into three main themes. All three can be traced back to the sixth or seventh centuries, when they seem to originate, not in popular traditions, but in the desire of learned clerics both to find honourable origins for their own peoples and to make sense of the contemporary world in the light of classical and Christian learning. The first theme that I extrapolate from their work came from Tacitus, according to whom the *Germani* of his day had a myth by which they derived their descent from the three sons of Mannus, the son of earth.³ This was the basis of the so-called Frankish Table of Peoples', of which the earliest version seems to be a sixth-century Byzantine attempt to show a genealogical connection between various barbarian peoples of that time by tracing their descent from Mannus and his sons. The table became known quite soon in the west, where the name of Mannus came to be replaced by Alanus or Alaneus.⁴ Neither Mannus nor Alaneus had much

significance for most people in the middle ages, but scholars continued to copy and adapt the Frankish Table' on occasion, because it provided a model by which the peoples of the time could be grouped and classified.⁵

The second and more important theme connects medieval peoples to the bible, by showing them to be descended from Japheth the son of Noah. Isidore of Seville (d.636) heads this tradition, attributing descent from the sons of Noah to a mass of peoples, both contemporary and ancient. To Isidore, with his encyclopaedic learning, all his etymological genealogies were no doubt interesting and satisfying, but he was probably particularly interested in his own people, the Goths, and must have been particularly pleased to claim that they were thought to be named from Magog the son of Japheth.⁶ Many of those who followed Isidore's lead were narrower in their interests and concentrated more exclusively on their own people. Notable early examples come from the British Isles. Scholars among the Scots, first in Ireland and then in Scotland, introduced an attractive twist to their own story by deriving their people, not directly from Noah, but from Scota, a daughter of the biblical pharaoh of Egypt in the time of Moses.⁷

The third theme is the most famous, and consequently the most mocked by modern historians. It is that by which peoples were connected to origins in the classical world and, notably, on the model of Vergil's Romans, to Troy. This appears first in the seventh century, in the second book of the Frankish chronicle attributed to Fredegar, where the Franks were derived from a party of exiled Trojans who came to the Rhineland and elected a king called Francio, after whom they became known as Franks.⁸ The story was quickly elaborated, with the gaps filled in and the genealogies completed in a variety of ways, and from the eighth century on references to it multiply.⁹ Nor was it long before authors concerned with other peoples took it up; by the tenth century the British were being derived from Brutus, descendant (at varying degrees of closeness) of Aeneas, and this story, like the Frankish one, was much copied and developed from the twelfth century.¹⁰ Early in the eleventh, meanwhile, Dudo of St Quentin contrived to make the *Daci* or *Dani*, who were ancestors of the Normans, into *Danai* or *Dacians*, and thus, by assimilating Greeks and Trojans, to give them a Trojan ancestry of their own.¹¹ The first German links with classical history, on the other hand, did not involve the Trojans, and may well have been independently forged, without direct borrowing from the Frankish story, in order to explain the glory and power of tenth-century Saxony. In his youth the Saxon monk Widukind heard a

story, about which he remained a bit doubtful, that the Saxons were descended from Alexander the Great's army.¹² In the twelfth century, Bavarian writers were finding even more ancient classical links by deriving Noricum, the old Latin name for their territory, from Norix, the son of Hercules.¹³ By the later thirteenth century Alexander von Roes, canon of Cologne, could attribute a Trojan ancestry, fairly casually, to the Germans as a whole, of whom he reckoned the French to be a rather inferior offshoot.¹⁴ In Italy, the Trojan theme may have been less popular for a while than the biblical one: even Rome, though its Trojan links were not forgotten, was said in the twelfth century to have been founded by a son and grandson of Noah, both called Janus, long before the coming of Aeneas.¹⁵ By the twelfth century, however, the Trojans were recognized to have been great founders of cities, especially in Italy,¹⁶ and more claims to Trojan foundation may have been made than we know about. By the fourteenth century, when civic records become more plentiful, such claims were numerous, but that may have owed something to the translation of Benoit de Sainte-More's romance of Troy from French into Latin during the late thirteenth century. Even then some Italian cities still preferred stories of older, biblical founders and ancestors.¹⁷

The combination of biblical and Trojan myths was in fact very general. As early as the seventh century, the first book of Fredegar's chronicle had put the Trojans, along with the Greeks, among Noah's descendants.¹⁸ Some texts even combined all three schemes of genealogy in one way or another. By the eleventh century, the *Historia Brittonum*, with its various additions, derived the British from the Trojan Brutus, taking in Alanus/Alaneus (i.e. the deuterio-Mannus) by the way, then showing the descent of the Trojans from Noah, and adding Noah's descent from Adam and from God for good measure.¹⁹ By the end of the thirteenth century, the English had taken over the Brutus story from the British so that Edward I could, paradoxically, use the supremacy of Brutus's eldest son over his brothers as an argument for English supremacy over all Britain. The Scots, on the other hand, claimed that the threefold division of Britain between the three brothers justified Scottish independence.²⁰ Alternatively, they sometimes based their claim to autonomy on their descent from Pharaoh's daughter, whose people had either conquered Albany from the British, or had come there long before Brutus. Sometimes they simply stressed their continuous independence from the time of their travels from Greater Scythia and through the Pillars of Hercules.²¹

This apparent confusion of themes was in medieval circumstances perfectly reasonable. It was natural for medieval writers to want to reconcile the learned works of the past: if a medieval scholar had access to different traditions handed down in works of high repute then his respect for authority would make him want to synthesize them.

How far any of the stories which we find in learned texts either reflected or influenced more widespread beliefs is at first sight doubtful. Modern scholars tend either to stress the divorce between clerical writers and lay beliefs or to suggest that ideas trickled in one direction only, from the clergy to the laity.²² Both interpretations are understandable as reactions to older attempts to treat the origin stories as 'folk-memories' of real migrations, but both nevertheless beg the question why so many writers adopted such a wide and haphazard collection of stories with such essentially similar features. It is surely not unreasonable to suppose that one reason was that the stories fitted their assumptions and values. We need to remember that even the most eclectic student of ancient literature is brought up in a particular society so that his assumptions and values, to some extent, reflect those of his time. That does not mean that all the origin stories told by the learned were equally likely to appeal to contemporary laymen. The lists and classifications of people, many of them full of biblical, classical, or totally imaginary names, probably never attracted attention from any but the learned; but stories of the origins of individual peoples, especially of the writer's own people, were another matter. The general character of this sort of origin-story, with its likeness to those of other, non-European, peoples, suggests that the writers who adapted their elements from ancient authorities may have been answering a quite widely felt need. Some questions about the origin of their own societies are likely to have occurred to laymen, and, however unexpected were some of the names and details of the answers they received, the general shape of the answers may have seemed acceptable enough to most people. From the twelfth century on, moreover, these origin-stories, or allusions to them, multiply even faster than do learned works in general. They can be found in vernacular poems and stories destined for lay audiences and, by the thirteenth century, in political documents as well. Though the documents were drafted by clerks there seems no reason to doubt that those laymen who were politically active, if no others, were familiar with the myths and found them attractive, useful, and, presumably, more or less credible.

Nor was their belief irrational. Despite the common condescension of modern scholars towards all the Trojan and biblical genealogies, medieval scholars were doing the best they could with the material they had. Not only was it reasonable

for them to try to reconcile their authorities, but it was also reasonable for them to look for the origins of their own peoples among the only earlier peoples of whom they had record. The events of the Book of Genesis and of the Trojan wars were both a long time ago. Without more archaeological and other information than they had, it was impossible to know that Japheth and the Trojans were *not* the ancestors of contemporary peoples: Noah, at any rate, must have been.

There is, however, one very important weakness of the origin-stories which scholars, despite their rather unfair mockery, have overlooked. That is their concern with collectivities which generally corresponded to political units of the time when the stories gained currency but which were extremely unlikely to have had a single common descent. Precisely the same implausibility, moreover, also applies to the stories of Scandinavian origin which some medieval writers preferred to the themes I have discussed so far. This point needs emphasis because the Scandinavian or north-German topos is not generally regarded as a myth in the same way as are the Trojan or biblical stories. My contention is that that is just what it is - so that, incidentally, I now have four themes among my stories unless (with a readiness to adapt the content while preserving the form which I model upon the myths themselves) I drop the Mannus/Alaneus theme and substitute the Scandinavian. Against my classification of the Scandinavian origin-stories as mythical it might be objected that the first extant example, Jordanes's history of the Goths, was written the best part of a century before Isidore, for instance, and that it may contain some core of 'folk memory' or traditional lore of the Goths. Nevertheless, it still comes centuries after the migrations it recounts and is clearly modelled on a classical tradition of ethnography. As Goffart has recently put it, quite apart from the tenuousness of the evidence that they had ever come from Scandinavia at all, 'No smooth line of historical narrative can connect the Goths in south Russia to the heterogeneous peoples led by Alaric and his successors in Italy, Spain and Gaul during the first two decades of the fifth century'.²³ In fact, we have very little evidence at all, outside stories that were told and elaborated after the sixth century, that a larger proportion of the population of Europe moved around during the 'Age of Migrations' than at any other time. Yet the stories of Scandinavian origin, like all the others that I am considering, seem to *assume* that 'peoples' were not only enduring political and cultural communities but were biologically homogeneous too. This seems to have been an important attraction of the origin-stories during the middle ages, as well as in later centuries when 'Germanist' ideas began to grow.

Some of the problems of 'folk migrations' and the 'age of settlement' may in

fact derive from survivals of these assumptions, even among historians today. We still tend to talk of the barbarians as 'tribes', which sometimes seem to be envisaged as self-contained breeding populations.²⁴ Historians who would not describe themselves as Germanists nevertheless, even, in the second half of the twentieth century, refer to the differences between barbarian invaders and existing populations in the early middle ages as 'racial', implying - apparently - that each group was biologically distinct and - apparently - continued to be so as long as its name continued to be used by any group within society. This must be wrong: once barbarians had been converted to orthodox Christianity and prohibitions on intermarriage had been lifted, it must have been hard to distinguish them from 'Romans' who were already mixed genetically and were increasingly barbarized culturally. References to Romans and Franks in Gaul in the seventh century, or to Franks and Burgundians in the ninth, can hardly have been to people of pure 'Frankish', 'Roman', or 'Burgundian' descent, whatever people thought at the time.²⁵ In fact, the medieval origin stories suggest that ideas of descent then were much less exact, if no less erroneous, than those of later Germanists. They certainly did not involve all the inferences later drawn from the stories by those who regarded the 'German race' as the purest and most noble. About 1200 a French chronicler deduced that serfs in France must have been descended from the conquered Gauls, because no Franks would pay tribute, but it was not until the sixteenth century and later that the real myth of Frankish nobles and Gaulish peasants seems to have developed.²⁶ On the contrary, few of the medieval writers concern themselves with what happened to previous or conquered populations at all. On occasion one will say briskly that the conquering people - that is, the subject of the myth - intermarried with the previous inhabitants, and he then seems to assume that that made them all one people.²⁷ More often medieval people took it for granted that each 'people' of their own day - and that increasingly seems to mean the whole population of an area, and quintessentially of a kingdom - was of one single descent. The stories of their distant past in Scandinavia, Troy, or Noah's ark were thus myths not only in the popular sense that they were not based on real evidence (or, probably, on any continuing 'folk memory') but in the more profound sense that they were developed to explain the present and to promote its values.

II

The full impact of the myths can be appreciated fully, therefore, only if one sees them within the context of medieval political thought. By this I do not mean primarily the thought expressed in clerical and academic treatises, but the assumptions and values of lay society, many of which were, of course, shared by the clergy and can be found, often as undiscussed assumptions, in their treatises. Medieval political thought in this wider, less systematic sense, was founded on the supremacy of law and custom.²⁸ Because law and custom prescribed order and hierarchy, they sanctified authority at the same time as limiting its exercise. Government was given by God, and, even if it was only made necessary by man's fall, it was therefore in its essence both good and just.²⁹ At the same time, the dependence of law on custom, and of custom on the community that made it, meant that the collective nature of all government was taken for granted. Every important exercise of government involved consultation, and consultation involved representation, long before theories of representation were articulated under the stimulus of controversies about church government, military service, and taxation. All this applied to government at every level from villages and petty lordships up to kingdoms. A king's government rested, *de jure* as well as *de facto*, on the advice and consent of his subjects, not as equal individuals but as a community bound together by ties of due and lawful order. Moreover, while, with due process of consultation, the king administered and made law, he himself was subject to the highest law of all, God's law, which his kingdom's law and custom ought to reflect. Kings were therefore never absolute in theory, however arbitrary they might be in practice, and kingdoms were never merely their possessions.³⁰ One cannot quite say that kingdoms were corporate communities, because the hazy legal categories of the time precluded any doctrine of corporations, while any suggestion of modern organic theories would be misleading, but kingdoms, like all smaller units of government, were certainly perceived as communities, and communities bound by mutual obligations. In this climate of thought it is not surprising that they should also have been perceived as communities of common descent, and that myths about the long common history of their peoples should have been fostered, consciously or unconsciously, to promote their unity.

All this is clearly discernible from the twelfth century, when governments became increasingly effective and when sources multiplied to record both the work of government and the political ideas behind it. What was new then, however, was not the body of political ideas and assumptions which I have described, any more than the myths themselves were new, but the much firmer

framework of government and politics within which the ideas were held and the myths believed. The first stage by which changes in government began to give existing ideas and myths a new meaning and vigour came around the tenth century. It was then that, in many parts of western Europe, the solidarities of supposed common descent and custom began to coincide more closely with the solidarities of kingdoms. After that, from the twelfth century on, legal jurisdiction, the power of law enforcement, and the right of legislation, all began to be more closely defined and controlled, so that all the old ideas and assumptions about custom and law impinged more and more closely on the actual practice of government. Each element of the new synthesis - myth, political and legal ideas, and the practice of government - gained in force from the others. It is no mere accident of the sources that references to mythical collective ancestries should have proliferated at the very time when government was becoming more effective, and effective over areas to which the old myths could be made to apply. That the populations of, say, the thirteenth-century kingdoms of France or Scotland were not entirely descended from the seventh-century Franks or Scots may seem obvious to us, but the conflation of ideas which I have sketched prevented people in the thirteenth century from realizing that. A brief look at the way that political units and political loyalties developed in the intervening period may help to show how stories invented by learned writers of the very early middle ages were unconsciously adapted for a much wider audience in quite different circumstances centuries later.

III

From the time when Roman government collapsed in the west, kingship was always a most important focus of loyalty. At first, however, kings were not so much kings of areas as kings of peoples. Sometimes their authority extended only over those who, even if they had originated as a heterogeneous band of warriors and camp-followers, thought of themselves as a community of custom and descent as well as of martial loyalty. Even when kings began to extend their authority over subject peoples, the various groups of separate - or supposedly separate - origins sometimes kept their own separate laws. The unity of these bodies of law was more conceptual than practical: everywhere there were local variations of custom, while the Franks developed and preserved what they thought of as two separate bodies of law. Nevertheless, that did not apparently stop them - or the warriors among them - from feeling a certain pan-Frankish solidarity. Whatever the realities of the variations, so long as neighbours or associates at either local or

‘regnal’³¹ level *felt* that they followed different laws, solidarities would be inhibited and separate myths of descent were likely to be cherished accordingly. With time, however, neighbouring laws influenced each other more and more, and local and regnal solidarities grew. Separate laws for people of supposedly separate origins survived as late as the eleventh century in parts of France, but law had become territorialized in most parts of western Europe centuries before.³² Once this had happened, the shared responsibilities of collective government and judgement would reinforce local solidarities. Moreover, because custom and law were so regularly associated with common descent, the time when law became territorialized was probably the time when peoples, with their myths of common descent, began to be perceived in territorial terms too. At the time when the first descent myths that we know about were recorded, during the sixth and seventh centuries, this territorializing process was already under way, but solidarities of descent and custom did not yet generally coincide with kingdoms. Some kingdoms, like that of the Franks, included a number of peoples who thought of themselves as distinct from the Franks and from each other, while other peoples, like the English, were split between separate kingdoms. In these circumstances, the myths were unlikely to have the same popular appeal or harness the same political loyalties as they did later on.

Isidore of Seville, who recorded the first known myth of biblical descent for west European peoples, exemplifies this early stage very well. Although his biblical and classical learning makes it difficult to know how far anything that he said reflected common ideas, some of his etymologies look as if they were at least not incompatible with contemporary reality. *Gens* and *natio* seem to have been more or less synonymous to him, both words meaning groups of common descent, though he used *gens* more freely and sometimes used it with distinctly political connotations, rather as he used *populus*. *Populus* he defined as the whole population of a *civitas*, which in turn was a human multitude bound together by law and common consent.³³ Civil law was the law any people or *civitas* established for itself.³⁴ Kingdoms (*regna*) he connected simply with kings, not with either *gentes* or *populi*.³⁵ Nevertheless it is suggestive that when he suggested that the Goths might be descendants of Magog, the son of Japheth, he also found a closely related ancestor for other subjects of the Spanish kingdom.³⁶ It may not be far-fetched to argue that he was using his eclectic learning to reconcile supposed descent groups with existing political units. A hundred years

later, Bede likewise depicted English society as a spectrum of overlapping units and loyalties. Though he described the English people as one *gens* and said that they spoke one language, he ascribed slightly different origins to the Angles, Saxons and Jutes, and did not question the right to independence of the separate kingdoms: the Mercians had a right to liberty under their own king even if that meant a defeat for Bede's own Northumbrian.³⁷

With the growth of Carolingian power, regnal loyalties were strengthened for a while, though the solidarities which conflicted with them were not extinguished. Then, as Charlemagne's empire broke up, new political units appear which could harness the solidarities of locality, custom and descent more easily than it had been able to do. The first medieval reference to its own language as one of the marks of a distinct people seems to come from Regino of Prüm (d.915). Regino lived in the borderland between the kingdoms of the East and West Franks just as they were drawing apart from each other, and it is interesting in these circumstances that he took it for granted that different peoples (*diversae nationes populorum*) differed from each other in descent, manners, language, and laws (*genere, moribus, lingua, legibus*).³⁸ Presumably the East and West Franks would no longer have seemed like a single people to him, though whether he thought of those who inhabited the kingdom of the East Franks as all one, or of groups like the Saxons and Bavarians as separate, we cannot tell. The traditional view of German history is that Germany was doomed to disunity until modern nationalism came to unite it, and that people at this time felt no significant solidarities above the 'tribal' level of the dukedoms. The evidence of separate myths for some of these groups in the tenth, eleventh, and twelfth centuries certainly suggests that they did think of themselves as separate peoples, but whether that excluded wider regnal loyalties and solidarities, on the part of the higher classes at least, is very doubtful. It was no doubt possible to feel, simultaneously, more than one loyalty then as it is now: it may therefore have been difficult to define 'peoples' consistently then, just as it is to define 'nations' consistently today. The circumstances in which the kingdom of the East Franks was held together in 911 and 919 suggest that there was indeed a measure of collective solidarity within it. The use of the alternative title of *regnum Teutonicorum*, which may after all be attested from the tenth century and became fairly common from the late eleventh, moreover, suggests that it was thought of as something more than just a segment of the old Frankish kingdom. Until 1197 there were long periods in which kings of Germany were effective and powerful, so that

‘trans-personal’ regnal loyalties were reinforced through the customary processes of consultative government.³⁹ In view of all this, it is not surprising that by the thirteenth century the Germans could be regarded as a single descent group. By then, the kingdom was disintegrating, but it took a lot of civil war to pull it apart.

In England the ease of assimilating the English and Norse languages was perhaps an important factor in developing regnal solidarities after the Danish invasions and the unification of the country under the West Saxon kings. Early in the eleventh century, the author of the *Battle of Maldon* described earl Byrhtnoth as ready to die guarding ‘this country [epel pysne], the land [eard] of Ethelred my lord, people and soil [folc and foldan].⁴⁰ In 1051 civil war was averted because an evidently influential number of people ‘thought that it would be a great piece of folly if they joined battle, for in the two hosts there was most of what was noblest in England, and they considered that they would be opening a way for our enemies to enter the country [lande] and to cause great ruin among ourselves’.⁴¹ For a few years after the Norman conquest, this sense of English solidarity produced a fierce resistance to the invaders, but thereafter it died away and it was not until the twelfth century that a new regnal solidarity began to develop. The royal government did much to create it, through the common law which it applied throughout the kingdom, through the ‘self-government at the king’s command’ which administered the law, and through the resentment which the king’s overseas wars and taxes aroused. In the thirteenth century, the loss of Normandy and failures in war evoked xenophobia, while the ‘community of the realm’ was further consolidated by frequent and increasingly large meetings of parliaments.⁴² In 1295 Edward I evidently thought he could awaken useful patriotic indignation by telling parliament that the king of France had the detestable plan of wiping the English language from the earth.⁴³ Despite the common association of language, people, and descent, English writers of the thirteenth century do not seem to have expressed any sense of regnal solidarity through a regnal descent myth. Perhaps the claims which successive kings made to overlordship of Wales, Scotland, and Ireland, as well as to inherited fiefs in France, inhibited their subjects from writing in such terms. Such claims may, however, explain how it was that the English felt able to appropriate the Britons’ myth of Trojan descent, thus apparently claiming a single ancestry for all the inhabitants of Britain, inside and outside the kingdom of England itself.

Their neighbours, however, were defiantly conscious of being distinct peoples. Bishop Bernard (d. 1148) of St David’s in Wales pointed out to the pope that his

people differed from those of Canterbury in nation, language, laws and manners, judgements and customs.⁴⁴ Gerald of Wales (d.1223) noted that the Normans (but not the English), although different in speech, were Trojans *sicut et nostrates*.⁴⁵ Welsh hostility to the English was, however, less effective than was that of the Scots, who had a kingdom to unite them. It was not a very united kingdom, it had a relatively weak and undeveloped central government, and its subjects did not even have a common language: yet by 1320, under the stress of constant attacks from the English, the Scots had produced one of the most eloquent statements of regnal solidarity to come out of the middle ages. Their letter to the pope, traditionally known as the Declaration of Arbroath, starts straight off with the independent origin of the Scots in Scythia and their long independent history ever since, as forming the fundamental ground of their case against the king of England. Baronial loyalty, as the letter makes clear, was owed not primarily to the king of Scotland but to the kingdom itself. The splendid rhetoric of the Declaration has not failed to attract criticism founded on that curious historical cynicism - almost a sort of inverted naiveté - which is determined not to take any statement of feeling or principle at its face value.⁴⁶ But a work of propaganda, as this was, must have been intended to appeal to values and emotions current at the time: the Scottish royal officials who drafted the letter presumably thought that ideas of collective political independence based on a single collective ancestry would seem convincing both to the barons in whose name it was drafted, and to the pope to whom it was addressed.⁴⁷

By this time, very much the same sort of ideas had been expressed in France too. At first, in the tenth and eleventh centuries, regnal solidarity had been weaker there than in Germany or England, thanks no doubt to the weakness of the monarchy. Most of the kingdom was divided between lordships which enjoyed greater or lesser internal cohesion but had little to do with the king. Flanders and Normandy both enjoyed particularly effective governments, which probably explains why each was on occasion referred to as a kingdom,⁴⁸ and why Normandy, at least, had its own descent myth. When Orderic Vitalis recounted the myth in the twelfth century he obviously envisaged that its subject, that *gens Normannorum* which was descended from the Danes and ultimately from the Trojans, comprised all the inhabitants of the duchy.⁴⁹ Like the author of the Declaration of Arbroath, he is a good illustration of someone who simply takes it for granted that the political unit of his own day - though in his case not a kingdom

- was a descent group. The whole kingdom of France, meanwhile, did not necessarily lack all regnal solidarities: people in twelfth-century Burgundy still remembered where the boundary of the kingdom ran.⁵⁰ By the thirteenth century the power of the monarchy was growing rapidly once more,⁵¹ so that the multiplication of references to the Trojan myth of the Franks at the same time is nothing but what one would expect. Some contemporaries now thought of the kingdom as having a common law, despite the many local varieties of custom, and reckoned that the king had some degree of jurisdiction over the whole of it.⁵² Very early in the fourteenth century, Jean Quidort of Paris, writing what looks like semi-official government propaganda against the papacy, gives a reasoned account of the corporate character and natural separateness of kingdoms in general, which he derived from the diversity of climate, languages, conditions of men, and ways of life. The French, of course, according to him, derived their independence and their kingdom from their collective Trojan descent.⁵³ As Jean shows, the *Franci* of the Trojan myth were now taken to be the inhabitants of the kingdom of France, a point which Louis X seems to have confirmed when he referred to the peasants of his kingdom as Franks who had become bound in servitude through the passage of time.⁵⁴

Among the areas I am considering, Italy may appear at first sight an exception, but the same need for a sense of solidarity, the same belief that ‘peoples’ ought to coincide with political units, can be found there too. In the tenth century, Liutprand of Cremona argued, against the claims of the Byzantine emperor to rule southern Italy, that the people (*gens incola*) and language of the region showed it to be part of the kingdom of Italy.⁵⁵ Early in the twelfth century, when the south had been conquered by Normans, a chronicler told how the conquerors taught their own manners and language to all who came there, so as to create a single people (*gens efficiatur ut una*).⁵⁶ In northern Italy, meanwhile, urban descent myths were the natural corollary and vindication of urban independence. An exception which quite literally seems to prove the acceptance of a general rule of unitary civic descent is provided by late thirteenth-century Florence: it was no wonder, according to Villani, that the Florentines were always at war and divided among themselves, since they were descended from two peoples (*popoli*) as contrary and hostile and different in their customs as were the noble and virtuous Romans and the rude and warlike Fiesolans.⁵⁷

IV

Those who study the academic political thought of the middle ages do not generally have much to say about this belief in naturally separate peoples and their inherited right to separate government, unless it is to suggest that it is a new development of the later middle ages, created by a combination of new forms of government, producing a new national consciousness, and of fundamentally new and humanistic concepts.⁵⁸ Perhaps this is because intellectual historians are, understandably, most interested in the more intellectual and the more controversial part of their authors' treatises, with the result that they may overlook what is unreasoned and assumed. At all events, the ideas which I have described so far seem to me to be detectable in some thirteenth-century works, though in the form of unreasoned premises, which I suggest were derived from traditional assumptions and beliefs, rather than in the form of doctrines to be formulated and discussed. A few examples may illustrate this. The first preoccupation of Thomas Aquinas when he discussed politics was to assimilate Aristotelian ideas with contemporary ones. Following Aristotle, Aquinas liked to describe the perfect community as a *civitas*, but sometimes he qualified the description by calling the community a *civitas* or *regnum*, a *civitas* or *gens*, or a *civitas* or *provincia*. It is surely contemporary reality that is pushing him to acknowledge that political units are often larger than 'the Philosopher' allowed. It is also worth noting that, contrary to popular stereotypes of medieval political thought, Thomas does not provide for any universal state or allow for an empire over the kingdoms or *civitates*,⁵⁹ Among later Aristotelians, Jean Quidort, whom I have already mentioned, seems to be unusual in giving a prominent place to descent myths, but others write in a way that suggests the same body of ideas about kingdoms and peoples.⁶⁰ Egidius Colonna extended Aristotle's hierarchy of communities by explicitly superimposing *regna* over *civitates*, instead of assimilating them as Aquinas had done.⁶¹ Engelbert of Admont elaborated it further so as to distinguish *gentes* from *regna*, but he then seems to treat the two categories as much the same. The kingdoms of the world, he says, are diverse because of the diversity of *patriae*, languages, manners, and laws. Engelbert may theoretically have envisaged a kingdom which did not enjoy uniformity in these phenomena, but he believed that the peace of the kingdoms depended on their doing so. There could not be one law, or one king and emperor, over diverse *gentes* with their diverse laws, *patriae*, and inherited manners and rites (*patrios mores et ritus*).⁶²

Engelbert accepted all this, even though he was writing in favour of universal monarchy. So too, of course, was Dante. Yet he too conceded that a universal empire could not look after little local details and that *nationes*, *regna*, and *civitates* had their own characteristics and needed their own laws.⁶³ Both of them, it seems, accepted the diversity of peoples and their kingdoms as a fact, and it looks as if, without thinking much about it, they probably also assumed that the diversity was inherited.

There are some exceptions, of which the clearest that I have found is Marsilius of Padua, who argues that states are united not by any naturally occurring (i.e. involuntary) unitary form (*per formam aliquam unicam naturalem*) any more than by walls and boundaries, but by common will - because the men of one *civitas* or kingdom want one government.⁶⁴ Marsilius serves to make the point that I do not maintain that everyone between the tenth and fourteenth centuries agreed that kingdoms or other political units were essentially units of common descent. What I argue is that such ideas were around, and that they chimed so well with accepted ideas on law and government that they were probably held, in a vague and unarticulated form, by many people, both clerical and lay, learned and unlearned. Marsilius himself even talks about the apparently larger *regnum* as well as about the *civitas* and alludes to the possible advantage of separate governments for different regions, especially those with different languages, manners, and customs - though he leaves this aside as irrelevant to his subject.⁶⁵ His relevance to my subject is the same as that of the other writers I have mentioned: they reveal or imply presuppositions about the link between common customs, common descent, and political unity which were around in the contemporary air that even the most innovatory intellectual, the most cloistered academic, must breathe.

V

My conclusion is that the myths of descent of peoples which are first recorded in sources of the sixth and seventh centuries and which then proliferated during succeeding centuries can best be understood as one aspect of a belief in the natural, *given* existence of collective groups with their own customs, laws and cultures. It was easy for medieval people to accept the diversity of peoples and their customs because they knew that God ruled all and that Christian peoples with differing secular customs and laws nevertheless shared one supreme law, God's law.⁶⁶ It was this, not the occasional special pleading of emperors or popes, that

constituted the real 'universalism' of the middle ages.⁶⁷ Naturally, the perceptions of 'peoples' and their relationships changed during a period when the practice of law and politics changed as much as it did between the sixth century and the fourteenth. In the sixth century peoples were probably thought of as communities of common descent, law, and language; then, as government developed, taking over more jurisdiction and law enforcement, units of descent and law came to be accepted as communities of government too, and quintessentially as kingdoms. In practice, the boundaries of the different sorts of unit often did not coincide at all well, but people seem to have thought that they normally did so. In some cases they seem to have been remarkably capable of ignoring anomalies, such as a plurality of language within one kingdom, or relatively recent migrations which must still have been remembered. As for cases where two kingdoms shared a supposed common descent, that does not seem to have worried anyone: the whole set of ideas was too unsystematic to create claims to authority which would not have been made otherwise. Collective descent myths fortified existing situations or claims; they did not, apparently, create new ones.

Because kings were seen as the type of supreme ruler and kingdoms as the type of polity, the most complete sort of 'people' comprised the inhabitants of a whole kingdom. Indeed, kingdoms were as much defined by their people as by their king. Which came first would probably have seemed a chicken-and-egg question to most people, and it is not surprising that some writers do not seem to have distinguished the tracing of a king's genealogy from recounting the descent of his subjects.⁶⁸ This unitary model of a kingdom and its people needs emphasis in order to distinguish the characteristic descent-myths of the middle ages from those later myths which would attribute separate descents to separate classes. It is true that medieval writers sometimes explained class divisions in this way,⁶⁹ and individual families, of course, often claimed descent from a people of high prestige - from ancient Romans in Italy, for instance, or from Normans in England. Nevertheless, so long as peoples were perceived as single communities, however stratified, stories like this were unlikely to acquire the force of real myths. By 1300 constitutional changes were on the way in many countries which would create a new need for separate myths for the different orders or ranks within society. Large assemblies for consultation and tax-raising were becoming regular features of government, so that the practice and theory of representation were developing. The old assumption that the great men of a community represented the whole of it was therefore coming to be superseded by a new theory of 'estates'.

Once this happened, and the long-recognized ‘orders’ were embodied in political institutions as political ‘estates’, new myths were required, and the way was opened for the old stories to be reinterpreted to demonstrate the separate origins of Franks and Gauls, Normans and Anglo-Saxons. These new myths show how far the medieval sense of a regnal community which transcended inequalities had been undermined.

AFTERTHOUGHTS

- p. 379, n. 23: Wolfram’s *Geschichte der Goten* has been translated as *History of the Goths* (Berkeley, 1988). Arguments about the Scandinavian origin of the Goths continue: e.g. P. Heather, *Goths and Romans*, 323-8; Wolfram, ‘Origo et religio: ethnic traditions in early medieval texts’, *Early Medieval Europe*, 3 (1994), 19-38.
- p. 380, n. 25: On ‘ethnic’ origins in general: E. James, ‘The origins of barbarian kingdoms’, in *The origins of Anglo-Saxon kingdoms*, ed. S. Bassett (Leicester, 1989), 40-52; H. Wolfram and W. Pohl ed. *Typen der Ethnogenese unter besonderer Berücksichtigung der Bayern* (Vienna, 1990).
- p. 380, at n.26: J. Szűcs, *Nation und Geschichte* (Budapest, 1974) and P. Freedman, ‘Cowardice, heroism and the legendary origins of Catalonia’, *Past & Present*, 121 (1988), 3-28, and *The origins of peasant servitude in medieval Catalonia* (Cambridge, 1991) have both shown that myths of the separate origin of nobles and peasants spread more widely in the later middle ages than I suggested. The change from myths about whole peoples to myths about separate origins of separate classes or orders seems to reflect wider social and political change.
- p. 382: My remark about two separate bodies of Frankish law is misleading: they probably reflect a time before Clovis united his subjects as Franks: E. James, ‘Origins’, added above to n. 25.
- p. 383: Isidore of Seville (*Etymol.* xix. 23.6) noted language as a mark of a distinct people before Regino.
- p. 384: E. Müller-Mertens, *Regnum Teutonicum* (Vienna, 1970), which I should have cited, argues convincingly that the use of *regnum teutonicum* started in Italy, notably with Gregory VII. Arguments that the apparent absence of a name before the twelfth century implies a lack of unity or solidarity still seem to me weak. Namelessness may be a sign of ethnocentricity: some peoples call themselves simply ‘men’ or ‘people’. It is other groups who need names. But it

seems likely that the apparently nameless kingdom had as yet no single origin myth.

A slightly longer version of this paper was presented to a colloquium on 'Legitimation by Descent' held under the presidency of Professor R. Thapar at the Maison des Sciences de l'Homme, Paris, 7-9 July 1982. Among those there and elsewhere who have helped me I should like to thank especially Professors E. A. R. Brown and W. Goffart and Dr G.A. Loud.

- ¹ For the use of these words, see note 33.
- ² A. Borst, *Der Turmbau von Babel* (Stuttgart, 1957-63), gives the nearest approximation to a comprehensive survey of descent myths that I have found.
- ³ *Corneli Taciti Opera Minora*, ed., M. Winterbottom and R.M. Ogilvie (Oxford, 1975), p. 38 (Germania, II.2).
- ⁴ Information from Professor W. Goffart, whose new edition and discussion of the table will be published in *Frühmittelalterlichen Studien* (1983); pending that: J. Friedrich, 'Die sogenannte Fränkische Völkertafel', *Sitzungsberichte der Bayerischen Akad. der Wissenschaften* (1910), no 11.
- ⁵ Borst, *Turmbau*, pp. 461, 464, 473-4, 565, 609-12.
- ⁶ Isidore of Seville. *Etymologiarum Libri*, cd., W.M. Lindsay (Oxford, 1911). 9.11, pp. 26-29, 89-90; 'Historia Gothorum' in *Monumenta Germaniae Historica, Auctores Antiq.*, xi (1894). p. 268.
- ⁷ E. Faral. *La légende arthurienne* (Paris, 1929), i, pp. 199-205.
- ⁸ *Mon. Ger. Hist.: Script. Rerum Merov.*, ii (1888), p. 93 (II. 4-8).
- ⁹ Faral, *Légende arthurienne*, pp. 262-88; S. Eckhardt, *De Sicambria à Sans Souci* (Paris, 1943), pp. 11-51.
- ¹⁰ Faral, *Légende arthurienne*, pp. 170-83; Borst, *Turmbau*, p. 1978 and pages listed there; A. Joly, *Benoit de Sainte-More et le roman de Troie* (Paris, 1870).
- ¹¹ Dudo, *De moribus et actis primorum Normanniae ducum*, cd., J. Lair (Caen, 1865), p. 130(1.3).
- ¹² Widukind, *Rerum gestarum Saxoniarum libri tres* (*Mon. Ger. Hist.*, S.R.G., ix, 1935), pp. 4-5, 20-1 (I. 2-3, 12); cf. Borst, *Turmbau*, p. 568.
- ¹³ Borst, *Turmbau*, pp. 669, 671.
- ¹⁴ *Mon. Ger. Hist.: Staatsschriften*, i (1958), pp. 102, 108-15.
- ¹⁵ Borst, *Turmbau*, pp. 564-5, 704-5, 863-4.
- ¹⁶ Borst, *Turmbau*, pp. 589, 623; cf. J. Clark, 'Trinovantum: the evolution of a legend', *Journal of Medieval History*, vii, 1981, pp. 135-51.
- ¹⁷ E. Gorra, *Testi inediti di storia trojana* (Turin, 1887), pp. 61-100), 150; J.R. Berrigan, 'Benzo d'Alessandria and the cities of northern Italy', *Studies in medieval and renaissance history*, iv, 1967, pp. 127-92.
- ¹⁸ *Mon. Ger. Hist.: Script. Rer. Merov.*, ii, 21.
- ¹⁹ *Nennius et l'Histoire Brittonum*, ed., F. Lot (Paris, 1934), pp. 228-9.
- ²⁰ E.L.G. Stones and G.G. Simpson eds., *Edward I and the throne of Scotland* (Oxford, 1978), ii, pp. 298-9.
- ²¹ E.L.G. Stones eds., *Anglo-Scottish relations, 1174-1328* (Edinburgh, 1965), p. 113; J.J. Fergusson ed., *The declaration of Arbroath* (Edinburgh, [1970]), pp. 6-11. For some later developments see L. Keeler, *Geoffrey of Monmouth and the later Latin chroniclers* (Berkeley, 1946), pp. 62, 77. Scott's husband

changes in different versions; Borst, *Turmbau*, pp. 473, 552; Keeler, *op. cit.*, p. 77.

²² However, see J.M. Wallace-Hadrill ed., *Fourth book of Fredegar's chronicle* (London, 1960), pp. xi–xii, and Faral, *Légende arthurienne*, i, p. 285.

²³ W. Goffart, *Barbarians and Romans* (Princeton, 1980), p. 7, and pp. 3–39 *passim*. Cf. R. Hachmann, *The Germanic Peoples* (London, 1971), pp. 33–51, *et passim*; R. Wenskus, *Stammesbildung und Verfassung* (Cologne/Graz, 1961), pp. 14–17, 33–5, 46–82; F. Graus, review of Wenskus, *Historica*, vii 1963, pp. 185–91; E.J. Bickerman, 'Origines gentium Classical philology, xlvii, 1952, pp. 65–81; H. Wolfram, 'Eine Überlegungen zur Gotischen Origines gentis' in *Studia linguistica A.V. Issatschenko* (Lisse, 1978), pp. 487–99; Goffart, review of Wolfram, *Geschichte der Goten*, *Speculum*, lvii 1982, pp. 444–7.

²⁴ On tribes: A.W. Southall, 'The illusion of tribe', *Journal of Asian and African studies*, v, 1970, pp. 28–50; B.H. Slicher van Bath, 'Dutch tribal problems, *Speculum*, xxiv, 1949, pp.

²⁵ J.P. Poly and E. Bournazel, *La mutation féodale* (Paris, 1980), pp. 314–20; E. James, *The Origins Of France* (London, 1982), pp. 13–41.

²⁶ Paris, B.N. MS. Lat. 4998, f. 51, quoted A. Thierry, *Récits des temps mérovingiens* (Paris, 1840 edition), pp. 46n; Widukind, *Rerum gest. Sax.*, 20 (1.14) is interpreted by F. Steinbach, *Collectanea* (Bonn, 1967), pp. 696–7, the same way.

²⁷ *Recueil des Historiens des Croisades: Historiens Occidentaux* (Paris, 1841–1906), v, p. 715, line 214.

²⁸ The argument of this paragraph is developed more fully in S. Reynolds, 'Law and communities in western Europe, c900-1300'. *American Journal of Legal History*, xxv, 1981, pp. 205–24.

²⁹ Even John of Salisbury, who thought governments originated in iniquity, agreed they now existed for the public welfare: *Polycraticus*, ed., C.C.J. Webb (Oxford, 1909), i, pp. 237–41; ii, p. 346 (IV, 2–3; VIII, 17).

³⁰ H. Beumann, 'Zur Entwicklung transpersonaler Staatsvorstellungen', *Vorträge und Forschungen*, iii 1956, pp. 185–224; K. Bosl, *Frühformen der Gesellschaft im mittelalterlichen Europe* (Munich/Vienna, 1964), pp. 135–55; H. Krause, 'Königtum und Rechtsordnung in der Zeit der sachsische und salier Herrscher', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Germ. Abt., lxxxii, 1965, pp. 1–98; J. Ehlers, 'Karolingische Tradition und frühes Nationalbewusstsein in Frankreich', *Francia*, iv, 1976, pp. 213–35; I.N. Wood, 'Kings, kingdoms and consent' in P.H. Sawyer and I.N. Wood, eds., *Early medieval kingship* (Leeds, 1977), pp. 6–29. Concepts of public welfare existed much earlier than E.H. Kantorowicz suggested in *The king's two bodies* (Princeton, 1957): R.W. Southern, review in *Journal of Ecclesiastical History*, X, 1959, pp. 105–8.

³¹ Lacking an adjective in common use derived from 'kingdom', Anglophone medievalists usually write of the solidarities of medieval kingdoms as 'national'. Although medieval 'regalism' had much in common with the underlying theories of modern nationalism (see A.D. Smith, 'Nationalism' (*Current Sociology*, xxi, 1973, 10), this usage begs important questions. I shall therefore use the word 'regnal' instead.

³² Poly and Bournazel, *La Mutation féodale*, pp. 329–32; cf. Mon. Ger. Hist.: Epistolae, v (1898), pp. 158–64; E. Zollner, *Die politische Stellung der Völker im Frankreich* (Vienna, 1950), pp. 53–6, 61–4, 105–6, 111; James, *Origins of France*, pp. 39–41; Reynolds, 'Law and communities', pp. 208, 210–1 and works there cited.

³³ *Etymol.*, 9.ii.1, iv.4–6; 15.ii.1. Later definitions varied: e.g. *Patrologia Latina*, ed., J.P. Migne (Paris, 1844–1903), clxii, col. 1521 (Anselm of Laon); Borst, *Turmbau*, pp. 752–4 (William of Alton). There is no ground for the belief of historians of modern nationalism that *natio* and its vernacular derivatives were seldom used in the middle ages except for the university 'nations': F.W. Müller, 'Zur Geschichte der Wortes und Begriffes 'nation' im französischen Schrifttum des Mittelalters', *Romanische Forschungen*, lviii–lix, 1947, pp. 247–321, esp. 251–7; H.D. Kahl, 'Natio im mittelalterlichen Latein', *Nationes*, i, 1978, pp. 63–108; G.A. Loud, 'The Gens Normannorum - myth or reality?', *Proc. Battle Conference*, iv, 1981, pp. 104–17; on *populus*, F. Graus, 'Littérature et mentalités médiévales', *Historica*, xvi, 1969, 61n.

- ³⁴ *Etymol.* 2.x. 1.
- ³⁵ *Ibid.* 9.iii.1.
- ³⁶ *Ibid.* 9.ii.89, 110.
- ³⁷ Bede, *Historia ecclesiastica*, ed., C. Plummer (Oxford, 1896), i. 180 (III. 24); further discussed by J. Campbell, *Bede's reges and principes* (Jarrow lecture, 1979).
- ³⁸ *Chronicon* (Mon. Ger. Hist. S.R.G., 1890), p. xx; comments: W. Schlesinger, H. Kahl and H. Beumann in *Nationes*, i, 1978, pp. 19, 51, 65–6, 350.
- ³⁹ Beumann, 'Zur Entwicklung...', pp. 185–224, and 'Die Bedeutung des Kaisertums für die Entstehung der deutschen Nation', *Nationes*, i, pp. 317–66; E. Müller-Mertens, 'Zur Rolle der politischen Formung bei ihrer Volkwerdung' in B. Gramsch ed., *Germanen - Slaven - Deutsche* (Deutsche Historiker-Gesellschaft, Berlin, 1968), pp. 31–41; for kingdoms to the east of Germany, F. Graus, 'Die Entstehung der mittelalterlichen Staaten in Mitteleuropa', *Historica*, x, 1965, pp. 5–65; D. Obolensky, 'Nationalism in Eastern Europe in the middle ages', *Transactions of the Royal Historical Society*, ser. 5, xxii, 1972, pp. 1–16.
- ⁴⁰ M. Ashdown ed., *English and Norse documents relating to the reign of Ethelred* (Cambridge, 1930), p. 24.
- ⁴¹ C. Plummer and J. Earle eds., *Two Saxon chronicles parallel* (Oxford, 1892), i.175 (D); translation from D. Whitelock ed., *The Anglo-Saxon chronicle* (London, 1961), p. 118. See also C and D annals for 1052 where, however, Whitelock translates *wip heora agenæs cynnes* as 'against men of their own race': 'nation' or even 'kin' would mislead modern readers less.
- ⁴² S. Reynolds, 'Eadric silvaticus and the English resistance', *Bulletin of the Institute of Historical Research*, liv, 1981, pp. 102–5; J.C. Holt, *Magna Carta* (London, 1965), pp. 183–200; E. King, *England, 1175–1425* (London, 1979), pp. 2–4; A. Bossuat, *Les origines troyennes*, *Annales de Normandie*, viii, 1958, p. 194. On the twelfth century: John of Salisbury, *Polycraticus*, ii.45, 53 (VI. 17, 18).
- ⁴³ *Parliamentary writs*, i (Record Commission, 1827), p. 30. J.R. Strayer, *Medieval statecraft and perspectives in history* (Princeton, 1971), p. 263, translating *linguam anglicam* as 'the English race', shows that the association of language with race is not yet dead.
- ⁴⁴ Giraldus Cambrensis, *De invectionibus*, ed., W.S. Davies, (Y Cymmrodor) xxx, 1920, pp. 141–2(II.7).
- ⁴⁵ Giraldus Cambrensis, *Opera* (Rolls series, 1861–91), iii, p. 320.
- ⁴⁶ Fergusson. *Declaration of Arbroath*; G. Simpson, 'The declaration of Arbroath revitalized', *Scottish Historical Review*, lvi, 1977, pp. 11–16; G.W.S. Barrow, *Robert Bruce and the community of the realm of Scotland* (London, 1965) and 'The idea of freedom in late medieval Scotland', *Innes Review*, xxx, 1979, pp. 16–34; A.A.M. Duncan, 'The making of the declaration of Arbroath' in *The study of medieval records*, eds., D.A. Bullough and R.L. Storey (Oxford, 1971), pp. 174–88; B.C. Keeney, 'The medieval idea of the state: the Great Cause, 1291–2', *University of Toronto Law Journal*, viii, 1949–50, pp. 48–71; above, notes 20, 21.
- ⁴⁷ For a slightly earlier appeal to the pope, based on similar grounds, from some Irish lords, see *Scotichronicon W. Boweri*, ed., W. Goodall (Edinburgh, 1759), ii, pp. 259–67, and cf. Barrow, *Robert Bruce*, p. 434.
- ⁴⁸ J. Le Patourel, *The Norman Empire* (Oxford, 1976), pp. 181, 231; K.F. Werner, 'Kingdom and principality in twelfth-century France' in *The medieval nobility*, ed., T. Reuter (Amsterdam, 1978), pp. 250, 280.
- ⁴⁹ Orderic Vitalis, *Ecclesiastical History*, ed., M. Chibnall (Oxford, 1969–80), ii, pp. 274–6, v, pp. 24–6; comments: Loud, 'Gens Normannorum'.
- ⁵⁰ *Patrologia Latina*, clxxxix, col. 909 (Peter the Venerable); comments: G. Duby, *La société aux xi^e et xii^e siècles dans la région mâconnaise* (Paris, 1971 edition), p. 402; C.T. Wood, 'Regnum Francie', *Traditio*,

xxiii, 1967, p. 133n.

⁵¹ Wood, 'Regnum Francie', pp. 117–47; J.R. Strayer, *Medieval Statecraft*, pp. 299–314; Kantorowicz, *The king's two bodies*, pp. 207–72.

⁵² P. Petot, 'Le droit commun en France selon les coutumiers', *Revue historique de droit français et étranger*, ser. 4, xxxviii, 1960, pp. 412–29; cf. J. Acher, 'Notes sur le droit savant au moyen âge', *ibid*, xxx, 1906, pp. 125–78.

⁵³ J. Leclercq ed., *Jean de Paris et l'ecclésiologie du xiii^e siècle* (Paris, 1942), pp. 176–8, 180–3, 199, 246–7 (cc. 1, 3, 4, 10, 21); cf. J. Leclercq, 'Un sermon prononcé pendant la guerre de Flandre', *Revue du moyen age latin*, i, 1945, pp. 170–1.

⁵⁴ M. Bloch, *Rois et serfs* (Paris, 1920), pp. 132–3, though the ambiguity of the word franc makes it unclear whether it really has an ethnic meaning here. It was certainly used in the ethnic sense (against my argument) in the chronicle cited in note 26; cf. W. Goffart, 'Old and new in Merovingian taxation', *Past and Present*, 96 (1982), p. 21.

⁵⁵ *Opera* (Mon. Ger. Hist., S.R.G., xli, 1915), 179 (*Legatio*, c.7).

⁵⁶ William of Apulia, *La geste de Robert Guiscard*, ed., M. Mathieu (Palermo, 1961), p. 108 (I. line 168).

⁵⁷ *Croniche di Giovanni, Matteo e Filippo Villani* (Trieste, 1857), i. 21 (I. 38); cf. N. Rubinstein, 'The beginnings of political thought in Florence', *Journal of the Warburg and Courtauld Institutes*, v, 1942, pp. 198–227.

⁵⁸ e.g. W. Ullmann, *Medieval foundations of renaissance humanism* (London, 1977), pp. 118–122, *et passim*.

⁵⁹ *Summa Theologiae* (Rome, 1894), ii. 786, iii. 383, v. 208 (Ia Ilae, q. 105, art. 1; Ia Ilae, q. 50, art. 1; Illae Suppl. q. 40, art. 6); *Selected political writings*, ed., A.P. d'Entrèves (Oxford, 1959), 8 (*De regimine principum*, 1.1).

⁶⁰ For canonist views see S. Mochi-Onory, *Fonti canonistiche dell'idea moderna dello stato* (Milan, 1951); F. Calasso, *I glossatori e la teoria della sovranità* (3rd edition Milan, 1957). A good example is Gregory IX: J.L.A. Huillard-Bréholles ed., *Historia diplomatia Frederici Secundi* (Paris, 1852–61), v (1), p. 457.

⁶¹ C.N.S. Woolf, *Bartolus of Sassoferrato* (Cambridge, 1913), pp. 274–5.

⁶² M. Goldast ed. *Politico imperialia* (Frankfurt, 1614), pp. 754–812 (*De mutatione reformatione ruina et fine imperii*, c. 12, 14, 16).

⁶³ *Opere*, ed., E. Moore and P. Toynbee (Oxford, 1924), pp. 344, 349 *De monorchia*, I, 5, 7, 14; for a recent comment related to national ideas: A. Buck, 'Dante und das Italienische Nationalbewusstsein', *Nationes*, i, 1978, pp. 489–503.

⁶⁴ *Defensor Pads*, ed., C.W. Previté-Orton (Cambridge, 1928), p. 7 (I. 2.2, 17.11); cf. C. Pincin, *Marsilio* (Turin, 1967), pp. 57, 59–64. For other possible examples: C.T. Davis, 'An early Florentine political theorist: Fra Remigio de' Girolamo', *Proceedings of the American Philosophical Society*, civ, 1960, pp. 662–76, and, in a less intellectual way, Fulcher of Chartres, *Historia Hierosolymitana*, ed., H. Hagenmeyer (Heidelberg, 1913), pp. 748–9 (III. 37).

⁶⁵ *Defensor Pacis*, I. 17.10.

⁶⁶ Mon. Ger. Hist. *Epistolae Selectae*, ii (1920), 218 (Reg. Greg. VII, II. 63); and e.g. Borst, *Turmbau*, pp. 498, 513, 517, 540, 595, 710, 733.

⁶⁷ R.W. and A.J. Carlyle, *History of mediaeval political theory in the west* (London, 1903–36), iii, pp. 2–3, 170, 180; v. 149.

⁶⁸ e.g. Borst, *Turmbau*, p. 717.

⁶⁹ Above, note 26; Borst, *Turmbau*, pp. 485, 509–10, 655, 666–7, 735–6, 834, 839, 841, and 923–8 and references there.

III

What Do We Mean by “Anglo-Saxon” and “Anglo-Saxons”?

The immediate answer to the question posed in the title is given with characteristic dry clarity by James Murray in that great work of English history the *Oxford English Dictionary*. Murray’s first definition is “English Saxon, Saxon of England: *orig.* a collective name for the Saxons of Britain as distinct from the ‘Old Saxons’ of the continent. Hence, properly applied to the Saxons (or Wessex, Essex, Middlesex, Sussex, and perhaps Kent), as distinct from the Angles.” After explaining that, “in this Dictionary, the language of England before 1100 is called, as a whole, ‘Old English,’ ” Murray then goes on to say that the adjective “Anglo-Saxon” is “extended to the entire Old English people and language before the Norman Conquest.” Neither he nor the *Supplement* mentions explicitly the almost purely chronological use of “Anglo-Saxon” to describe the whole period of English history between 400 and 1066 that is now current, but it is easy to see how this has derived from the usage they expound.¹

What the original edition goes on to do, moreover, is to give an account of a wider use of the word that beautifully encapsulates the beliefs about culture and descent that lie behind it. The expression “Anglo-Saxon,” according to the *Oxford English Dictionary*, was then—that is, in the late nineteenth century—used “rhetorically for *English* in its wider or ethnological sense, in order to avoid the later historical restriction of ‘English’ as distinct from Scotch, or the modern political restriction of ‘English’ as opposed to American of the United States; thus applied to (1) all persons of Teutonic descent (or who reckon themselves such) in Britain, whether of English, Scotch, or Irish birth; (2) all of this descent in the world, whether subjects of Great Britain or of the United States.” Part of this is now out of date, thanks to the increased use of the words “Britain” and “British,” rather than “England” and “English,” for the United Kingdom and its inhabitants; to the growth of Irish, Scottish, and Welsh nationalism; and to the fact that large parts of the “Anglo-Saxon” world are now formally subject neither to Great

Britain nor to the United States. Nonetheless, the passage exemplifies very well the link that was simply assumed to exist between language and biological descent all through history until it was made explicit in the eighteenth and nineteenth centuries as the fundamental premise of the philological nationalism that was then developing in Europe. The philologists themselves, of course, started from the universal assumption that language and descent went together, so that when they divided languages into Germanic, Latin, Celtic, and so forth, they thought that they were also dividing mankind into “races” of common descent and common inherited characteristics.² The advance of genetics, linguistics, history, and archaeology ought to have revealed the fallacy in this, but unexplored assumptions are slow to change, especially if it suits politicians to use them for good or ill, to cement the political unity of those they rule or to divert collective energies into hating those who are labeled “outsiders.”

The concern of this article is not with the problems of the modern world that are created or aggravated by the continuing confusion of culture with genetics but with the impediments such confusion puts in the way of understanding one particular part of the past. This historical confusion comes not primarily from the inexact way that historians themselves sometimes use words—which could be cured by making more precise definitions, agreeing them, and maintaining them among ourselves, which would be hard enough—but from our failure, as historians, to look at the way that words are and always have been used in real life, that is, loosely, with overlapping and inconsistent connotations, and above all changing their significance through time. Words shed or accumulate meanings as the world they represent changes and as people’s ideas change. Words, concepts, and things all change through time, but they change out of kilter. Historians cannot deal with the problems that changing terminology raises for them either by imposing definitions or by using the words we find in the sources without comparing them with our uses: both these procedures simply bypass the problems.³ We must study the words of the past in such a way as to discover the concepts of the past, and that means acknowledging the modern concepts that are likely to influence the way that even the most learned and devoted medievalist uses words that he or she thinks of as medieval.

Names are particularly interesting. The names of social and political collectivities suggest ways in which members of a group perceived it and in which that group was perceived by others. Human beings tend to be very realist (in the sense of the word used by medieval philosophers) about their social

relations. We tend unconsciously to deduce entities from names and an unchanging entity from an unchanging name. Can there be a people without a name? Some of the debates about the unity or disunity of tenth- and eleventh-century Germany presuppose that the lack of a single and new name for a new entity must imply a lack of solidarity. It is, however, typical of the intuitive character of much historical reasoning that the hypothesis should simply be assumed, that the arguments started from nineteenth-century ideas about the nineteenth-century state of Germany, and that no proper comparative work seems to have been done—for instance on tenth- and eleventh-century France or England—to test either the assumed hypothesis or its wider application to that period of history.⁴

The object of this article is to look both at the modern use of the word “Anglo-Saxon” as applied to the inhabitants of the south and east of Britain between about 500 and 1100 and at what they seem to have called themselves, in order to try to disentangle what we think about them, about what sorts of groups they formed, and about the ways in which they were divided from other groups from what they themselves thought about these matters. First, something more must be said about the history of the word. Murray, in the first definition quoted above, suggested that it probably originated on the Continent around the ninth century, as a name designed to distinguish the Saxons of Britain from those east of the Rhine. Further study, while adding a few references that push the first recorded instance back to the late eighth century, has more or less confirmed this, though it is worth noting that the exact form of the compound name with an *o* in the middle occurs comparatively rarely in sources surviving from the early Middle Ages. Forms like *Angli Saxones* (for the people), *Engelsaxo* (for one man), or *Anglorum Saxonia* (for the country) are more common. From Italy come also references to the *gens Anglorum et Saxonum*, in which the singular *gens* preserves the compound implications that the *et* would otherwise deny. Meanwhile, the inhabitants of what would come to be called England were, by the early eighth century if not before, using the simple word “English” (*Angli, Anglici*) to refer to themselves. As far as they were concerned, the name “Saxon” seems to have been reserved for the people of the southern kingdoms, while even southerners sometimes applied the description “English” to themselves as individuals and acquiesced in being subsumed under it as a group. Though Bede occasionally used expressions like *Anglorum sive Saxonum gens*, the genuinely compound name seems to appear in surviving native sources only from the late ninth century on, when West Saxon kings and their successors sometimes referred to themselves as kings of the *Angli Saxones*, *Angolsaxones*, *Anglosaxones*, or *Angulsaxones*, perhaps using such

forms to help them build bridges toward parts of the country that were, or had once been thought of as, quintessentially Angle.⁵ This usage had become rare by the later tenth century. Though it crops up occasionally in Aethelred's and Cnut's charters, its use in an opening clause is even then sometimes balanced by the king's subscription as *rex Anglorum*.⁶ Except when they were making vague but grandiloquent claims to supremacy over the whole island of Britain, the normal title of all kings from the later tenth century on seems to have been *rex Anglorum*. They were *reges Anglorum*, and their subjects, correspondingly, were *Angli*—English. The compound name did not reappear until it was resurrected in the sixteenth century in order to distinguish the language and history of the inhabitants of England before the Norman Conquest from those of later periods. In summary, therefore, the expression “Anglo-Saxon” originated abroad, possibly less as a compound of two names than as a single noun (“Saxon”) with a geographical adjective (“English, of England”) attached so as to distinguish the Saxons of England from those elsewhere. That possibility—though it is no more than that—suggests that the native use of the blanket description “English” was already giving rise to the geographical concept of Angleland or England. On the other hand, when the natives—or their kings—picked up the compound, it seems to have been as a genuine compound of two names. It did not catch on, however, presumably because the unitary name *Angli* was by then too well established.

Against this background, our use of the word raises a lot of questions. When others called them Saxons and they called themselves English, did the inhabitants of England think of themselves as one people or even as the sort of hyphenated compound—hyphenated but nonetheless distinct from all others—that might be inferred from our name for them? When did they become distinct from others? In what did they think that their unity, such as it was, consisted? In language, descent, or politics? What sort of unity did they in fact enjoy, and, insofar as it changed, did their perception of it change too? Which came first, political unity or a sense of unity? Finally, can we justify the degree of the break in continuity that is liable to be inferred from references to “the Anglo-Saxon period,” especially when it is contrasted, as it often is by British archaeologists, with a “medieval period” that began only in 1066? Did the identity of the people and their culture change as much in 1066 as the change of name implies?

The consideration of these questions here will start from the premise that medieval people seem to have envisaged their world as divided into “peoples” (*gentes*, *nationes*, *populi*) of common biological descent and culture who

normally and naturally formed separate political units. By the twelfth century, though maybe not before the tenth, these political units were quintessentially thought of as kingdoms.⁸ It is important to remember that these assumptions about peoples and kingdoms are not quite the same as the assumptions about nations and states that many people hold today and that, unless we recognize them and allow them, will color our view of the past. In the Middle Ages, at least after the tenth century and perhaps earlier, it was assumed that a people who, as some kind of political unit, shared common customs and law—and quite often a common language, though the texts mention that less often—were therefore of common descent. Nowadays, on the other hand, it is often thought that people of common descent share a common culture and therefore *ought* to form a separate political unit. The medieval assumption was an unreasoned justification for the status quo; the modern belief is an often controversial justification for change. The modern ideas have therefore been sharpened and altered by controversy and abuse in a way that the medieval assumptions were not. Though medieval people perceived differences between “peoples” and felt collective loyalties to their own, we cannot assume without argument that their perceptions of identity and difference correspond in all respects with modern perceptions of national and “ethnic” divisions, based as they are on modern ideas of popular government, nationalism, and race.

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The most difficult problems of all in what we think of as Anglo- Saxon history come at its very beginning, with what is traditionally called the Anglo-Saxon settlement and with the consequent break in continuity—whether great or small—with Roman Britain. Increasingly close and careful study of the evidence does not so far seem to have made those problems less difficult; but, as archaeologists, philologists, and historians have all given increasingly close attention to the reasoning they apply to the evidence, it has at least become possible to identify and define the most important issues.⁹ One important part of the reasoning has, however, not yet received the attention that it deserves. That is the very idea of peoples or nations as discrete and objective entities, whether these are classified as Celts and Germans, as Britons and Anglo-Saxons, or as Angles, Saxons, and Jutes, possibly with the odd Frank or Alaman thrown in. Many of those who criticize the evidence with great rigor nevertheless seem to take these entities, or

at least this sort of entity, on trust. They may accept that different “tribes” (as they are often called) became mixed together during the Age of Migration and Settlement, but they still imply that each tribe or people that had (or has) a separate name formed some kind of cultural entity, which was altered in proportion to its mixture with other tribes. The culture of the resulting society was therefore determined as much or more by the proportion of individuals of one or another descent within it as by any change of political or economic circumstances. It is, however, salutary to remember two things. One is that, difficult as it is to draw the boundary between what is transmitted biologically and what is transmitted culturally, we now know, as earlier ages did not, that there is a difference between the two processes. Most of the human social behavior in which we are interested at this juncture—such as religion, language, and the making of artifacts—was not genetically programmed. It was cultural. The other is that a great deal of our picture of the Age of Migration or *Völkerwanderung* is based on myths of origin and descent of a very conventionally mythical kind that have not gained in credibility by being adapted to fit the later ideas of philological nationalism.

One consequence of this line of thought is that one may go on to resolve some of the problems of the period by deducing that the so-called Germanic tribes of the Dark Ages probably formed much less tidy entities than is traditionally supposed and that there may have been comparatively few wholesale movements of groups that we can describe as tribes without grave risk of being misunderstood. Having suggested this, however, one has to concede that the migrations into England look like a special case. The change of language and religion was greater than in other Roman territories, except for a few border areas, so that it is reasonable to suppose that immigration may have been on a proportionately greater scale. That, however, is only a supposition: the language evidence, for instance, seems to be discussed without the benefit of much comparative evidence about the normal operation of this sort of linguistic change. Perhaps no comparative work has been done or is possible, but if that is the case, then the lack of it weakens the argument.¹⁰

In fact we do not know how consistently the Germanic-speaking invaders of Britain behaved like a group or felt themselves to be a group during the fifth and sixth centuries. We do not know what they called themselves or what others called them, if indeed they had any collective name. To the Roman authorities, those whom they called Saxons may have been particularly noticeable. Saxons, Scots,

and Picts were the only barbarian invaders whom Gildas thought worth naming.¹¹ That does not necessarily mean that all the Germanic- speaking invaders thought of themselves as Saxons or automatically allied themselves with Saxons against Britons, Picts, or Scots. By the eighth century, however, a sense of unity had somehow developed that enabled Bede to write in Latin of the *gens Anglorum* and, perhaps, to speak in the vernacular of the *Angelcynn* or *Angelðeode*—or both.¹² Those people in other countries, meanwhile, who by then spoke of the inhabitants of eastern Britain as “Saxons” (perhaps as a continuance of the earlier Roman usage) seem, as the qualifications “English Saxons” or “Saxons of England” imply, to have meant by this much the same people as Bede meant by *gens Anglorum*. Given the idea of peoples that prevailed at the time, both usages may imply a certain sense of common descent. That such a sense was felt is confirmed by the way that, although the kings of the various kingdoms between which the *gens* was divided cherished their own separate genealogies, there was some sort of idea that the English as a whole were kinsmen of the Continental Saxons. That must imply that they were thought to be of common descent themselves.

When and how the sense of unity that is implied by the common name and sense of common descent had originated needs more thought, however, than it did when everyone took it for granted that the English nation was a natural unit of blood and culture, including language, that was foreordained to come into existence as soon as it arrived in its promised land. The culture of the Germanic invaders, judging from their material remains, varied somewhat, and their common language may not have been very uniform. They may perhaps have been sufficiently like each other, and sufficiently different from both the native British and the simultaneously invading Picts and Scots, to be drawn together against them, but we cannot be sure. They were certainly very different in culture from the upper ranks of Roman Britons, but less so, surely, than from the lower ranks or from the other invaders— or indeed from the ruling Britons after the *pax romana* had become a hazy memory. Given the fluid and confused conditions that are likely to have prevailed through most of Britain in the fifth and sixth centuries, military and political conflicts may not always have followed “ethnic” lines: by the seventh century, when a sense of English unity is easier to postulate and explain, they did not. It may be a mistake to try to make sense of the fifth and sixth centuries by picturing the countryside as divided into British settlements, English settlements, and empty areas, which can be mapped by dating either archaeological finds or place-names

and attributing them neatly to particular ethnic groups. The reasoning depends on assumptions about ethnic continuity and ethnic separation that are difficult to justify. Apartheid is hard enough to maintain even when physical differences are obvious, political control is firm, and records of births, deaths, and marriages are kept. After a generation or two of post-Roman Britain not everyone, perhaps comparatively few people, can have been of pure native or invading descent. Who can have known who was descended from whom?

The implication of this argument—which is, of course, neither original nor provable—is that those whom we call Anglo-Saxons were not consistently distinguishable from everyone else. They were definable primarily by their military allegiance. Kings who called themselves (or whom Bede and others would later call) English or Saxon—although, incidentally, some of them bore British-sounding names—ruled areas that were therefore thought of, or later came to be thought of, as English or Saxon. How soon all the subjects of these kings came to speak English as their first language, and why it was that their English, when it came to be written, was so little affected by Celtic forms, seems very mysterious. It is not made less so by the way that some philologists and place-name scholars seem to be working with models of language transmission through “race” or “blood” that look a little old-fashioned.¹³ This is not just an interdisciplinary grouch: many historians use a similar terminology, and it is worth drawing particular attention to philological arguments only because the linguistic evidence is so important. Roman Christianity, like Roman political and material culture, could have been submerged merely by war and disorder. It is the linguistic change that most strongly suggests a large-scale immigration of a separate and possibly homogeneous people. If we try to explain it from unjustified premises about a link between biology and culture, genes and language, then we cannot hope to arrive at reliable conclusions.

It seems pointless to try to guess what proportion of the population of eighth-century England was descended from invaders of the fifth or sixth, let alone how, when, and why the descendants of the British among them changed their language. These questions, interesting and important as they are, need not, however, be directly relevant to the creation of a sense of English unity. That was a matter not of physical descent but of changes in political and social solidarity. Anyone who lived in an area dominated by an English king and who therefore owed allegiance to him was likely to come to consider himself and to be considered English. In time everyone in these areas came to speak English. There were probably exceptions everywhere at first and in newly conquered areas for longer. As late as

the seventh century the Briton who rode past the site of the battle of Maserfelth (if that was in Mercian rather than British-ruled territory) may have been one, while those of King Penda's subjects who were Christians before a formal mission arrived may have been people who had inherited or picked up British Christianity.¹⁴ A little later Ine's laws referred to Welshmen and their wergelds in terms that suggest that some of his subjects kept a sense of British separateness. Nevertheless, he legislated for them. Royal authority in Britain seems to have been territorial, which would tend to work against the survival of this kind of separate group identity within a kingdom.

Presumably the common language of the *gens Anglorum*, on which Bede commented, was a help in creating its sense of unity, but history does not suggest that a common language is either a necessary or a sufficient cause of a sense of national unity. Fighting together, perhaps under King Aelle, King Ceawlin, or any of the rest of the "great kings," may have helped, but Patrick Wormald has made that look more doubtful than it used to seem. The real founders of the sense of English unity may well have been, as he argues, Gregory the Great and Theodore of Tarsus.¹⁵ Once they had set the English church on its way, owing as it did devoted allegiance to their memories, divided as it was from the British church, and flourishing as it flourished in the late seventh and eighth centuries, the scene was set for that combination of unity and conflict that we find in the sources of what is sometimes oddly called the "middle Saxon" period. The English were united in their loyalty to Rome and Canterbury, in the division from the British that was symbolized by the separate names, languages, and ecclesiastical traditions, and in their sense of common descent. But they were divided by their separate kingdoms, the often fierce hostility between them, and the correspondingly fierce loyalties their kings could evoke. Unity and diversity coexisted on different layers of social consciousness and political allegiance.

The layer of unity was as yet a matter of feeling, not one of either political authority or genuinely common descent. Most subjects of English (or Saxon) kings who thought about it may have thought that their ancestors came from much the same areas as Camden, J. R. Green, Chadwick, or Stenton later believed they did, but in the European Middle Ages, as in other places and periods, the idea of common descent was more often the result than the cause of social and political solidarity. It was not based on good history, let alone on recognizable inherited characteristics or knowledge of the relationships between languages. Those who are commonly called the early and middle Anglo-Saxons (or Saxons) can best be

identified as those inhabitants of Britain who, wherever their ancestors came from or whatever the mixture of genes in each of them, were the subjects of kings who claimed descent from gods or kings of the mainland of northern Europe and who apparently thought of themselves or their ancestors as Angles, Saxons, and maybe Jutes. The majority of these people were probably not pure-blooded descendants of invaders, nor were any pockets of British speakers among them probably pure-blooded descendants of the earlier native population. The subjects of English kings came to form a single linguistic, religious, and cultural community that seems to have called itself the English people. Some called themselves Saxons, and outsiders sometimes called all of them English Saxons, but they are not recorded as having called themselves Anglo-Saxons. So far as they were disunited it was not because some were Angles and some Saxons but because they formed separate kingdoms that cherished internal loyalties and mutual hostilities that did not derive from ethnic divisions.

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The next stage of the story conventionally finds its plot in the evolution of the “bretwaldaship” toward the unification of England, but Wormald’s criticisms seem to have robbed that plot of much of its coherence.¹⁶ One of the reasons why “overlords” or “bretwaldas” have loomed so large since the time of H. M. Chadwick may be that, according to the unexamined assumption about nations that was current in Chadwick’s day and still is today, each nation or people (and that is normally assumed in Europe to mean a people of common language and “common stock”) moves through the attainment of national consciousness toward political unity, ultimately, if it is lucky, finding its rightful boundaries as a nation-state.¹⁷ The stage of the “bretwaldas” represents the transition from cultural to political unity and represents it in a nicely constitutional way: the English, being English—being a nation—wanted to be one “national kingdom” (as it were, a proto-nation-state), and any top king’s ambitions were therefore met by a measure of voluntary submission. Rival kings might vie for the top job, but there was a job—a vacancy—to be filled. We should not assume, however, that there was any such vacancy: the Franks, after all, felt some sense of solidarity but did not therefore remain a single kingdom. When the English became united in one kingdom in the tenth century, their unification was made easier by the preexisting sense of solidarity and by all the ideas of kingdoms and peoples that were then

current, but we cannot assume that it was the culmination of a steady trend toward political unity. It was the creation of new political circumstances.

The most important of those circumstances were the Scandinavian invasion and conquest of all but one of the English kingdoms in the late ninth century and the ultimately successful wars waged against the invaders and their successors by the surviving monarchy of Wessex that followed. Here we face another set of questions about the identity of the “Anglo-Saxons.” What was the relationship between them and the Danes and Norwegians who settled permanently in the country? How did contemporaries perceive these categories and the difference between them, and how long did they continue to see them as separate? According to modern assumptions about “ethnic groups,” it may seem reasonable that “the Scandinavians formed an important recognizable element” in the population, “a distinct community living under separate laws.”¹⁸ It is, however, a little difficult to envisage how this worked in practice: most historians seem to assume that people of Danish descent all over the country were recognizable as such—and presumably enjoyed some kind of “personal law”—yet it also seems to be often assumed that everyone living in the “Danelaw” was thought of as Danish. In Stenton’s magisterial words, “The whole of eastern England, from the Thames to the Tees [was] regarded as the sphere of a distinct form of customary law.”¹⁹ It may also seem reasonable to suppose that the descendants of the Danish and Norwegian settlers of the ninth and early tenth centuries would have felt a sense of kinship with the new invaders of the early eleventh, so that in the end they sided with them.²⁰ A division based on “ethnic” loyalties has even been thought to underlie the obscure conflicts of Edward the Confessor’s reign and to explain the allegedly incomplete unity of England in 1066.²¹ There seems, however, to be very little hard evidence for all this. It is an interpretation imposed on the evidence under the influence of the same ideas of philological nationalism—the same belief in the fundamental importance and connection of common descent and common language—as lie behind the expression “Anglo-Saxon” itself.

The arguments that the descendants of Danes did not continue to be thought of as Danes and that the Danelaw was not a consistently separate unit of government do not depend on decisions about the scale of Scandinavian immigration or the proportion of the population in northern and eastern England in, say, the eleventh century that was descended from them: the evidence of Danish influence is not dependent on that, and it is easier to avoid circular arguments if one ignores these problems. The difference between Danes and Norwegians is also irrelevant here,

though it might be noted that arguments that they were consistently distinguished run into difficulties and inconsistencies.²² Nor is it necessary for present purposes to assess—let alone to depreciate—the impact of Scandinavian influences on the language or institutions of the country. The argument is simply that, whatever their number and whatever their influence either on the whole kingdom or on part of it, once the immigrants or their descendants had become part of the kingdom they do not seem to have been perceived as a separate and identifiable group within it. It is not easy to see how they could have been. Personal names are evidence of fashion rather than of descent, and given the probable size of the preexisting population of eastern and northern England, the similarity of the English and Norse languages, and the apparently quick disappearance of active paganism among the Danes, social mixing and intermarriage must have started soon. It is even harder to see how most people in the north and east could have been of exclusively English or Danish descent by 1000, or could have known if they were, than to know about the relationship of English and British in earlier centuries.

One explanation might be that anyone who mattered in the areas that were thought of as following Danish law therefore assumed himself to be a Dane, but it is not obvious that this was the case. The geographical definition of any such area is far from clear. The threefold division of the kingdom and its law into West Saxon, Mercian, and Danish became traditional, and law codes went on occasionally referring to different penalties under English and Danish law, but some of these references are not tied to geographical areas, and even where they seem to be, the areas are seldom defined. All the records of various sorts that survive from the tenth century on refer to the Danelaw as a geographical area far less often than most modern accounts imply.²³ The more frequent use of other geographical descriptions like East Anglia, *Norðleoda*, or Northumbria or indeed of county names (none of which, however new, explicitly recognized the difference between English and Danes) suggests that the Danishness of such areas was not their most obvious characteristic. Altogether the mutual influence of English and Scandinavian terminology and custom—so far as customs differed significantly—cuts across boundaries in a way that makes it doubtful whether the following of English or Danish law in practice divided the population in such a way as to preserve the sense of two separate communities, whether living together according to “personal law” or in two separate regions.²⁴ By the eleventh century, moreover, if not before, few people probably realized that earls, *bovates*,

and wapentakes came from Scandinavia.

The crucial point seems to be that, whatever the local variations in the law practiced in the kingdom, and however much contemporaries may have recognized some of the varieties as Danish, subjects of the kings of the English were normally assumed to be English themselves. It is true that kings sometimes referred to Danes among their subjects, but we should not assume that each time they did so they were thinking of all the people who—or whose ancestors—had ever been considered Danes. Probably those thought of as Danes at any date were recent Danes, people who had themselves come from Denmark and might be going back there, not the descendants of earlier and now absorbed waves of immigrants.²⁵ These occasional references to Danes as subjects of the kingdom must, moreover, be set against the implications of the title *rex Anglorum* and the way that names were used in the Old English Chronicle. To the chroniclers, Danes were invaders and enemies, not subjects of the kingdom, and it is noteworthy that they hardly mentioned Danes at all between 920 and 990.²⁶ Even in the early years of the tenth century, not all the armies against which West Saxon kings fought were described as Danish, and not all may have been perceived as such. In the war-torn power vacuum north of the Thames troops of local vigilantes, free companies, and supporters of all kinds of local leaders or interests may have posed as much of a problem to Edward the Elder and his successors as did passport-carrying Danes.²⁷ Many a band described as a *here* must have been ethnically mixed, including some bands that a chronicler loyal to a West Saxon king might well think of as Danish (or Norse) because the leaders were invaders from abroad.²⁸ Individual Vikings, after all, from what we know of a few famous careers, operated all over the place, and a good many belonged, if anywhere, only to areas of already mixed settlement like Iceland or Ireland. The ultimate ethnic origin of their followers was even more irrelevant and unknown than their own and became still more so after war was ended and feelings of military solidarity were overlaid by those of political solidarity.

During the reign of Aethelred, a new series of Danish invasions met with dogged resistance for many years. When things began to go wrong, the chronicler, despite his eager search for scapegoats, did not blame treachery on Danes or suggest that the unhappy divisions of the kingdom followed ethnic lines: to him Danes were foreigners. The traitors, so far as he was concerned, were English. There are two possible exceptions, which bear a closer look. In 993 a raiding fleet came into the Humber, where a very large army was collected for defense but

failed to give battle because its leaders fled. The twelfth-century Worcester chronicle may have been drawing on its now lost version of the Old English Chronicle when it added that this happened because the three generals of the defending army force were Danes on the father's side.²⁹ This does not suggest that the northeast as a whole was regarded as Danish or partly Danish: rather the reverse. The half-Danishness of the generals seems exceptional. The other case came twenty years later, when King Svein's invading army also landed in the Humber, and Northumbria, Lindsey, the Five Boroughs, and (in Whitelock's translation) "all the Danish settlers north of Watling Street" quickly submitted to him.³⁰ Here, however, Whitelock is not so much translating as interpreting. The original does not mention Danish settlers. It says *eall here*. One reason for Whitelock's choice of words was presumably the belief that *here* was used only of Danish forces. That is not quite true, though it was more often used of an invading, hostile, or rebellious force than of an honorable defending one.³¹ Apart from that, however, the translation could only make sense on the premise that the descendants of Danish settlers were Danish settlers forever ("settler" being, like "immigrant" in Britain today, a hereditary status) and that all the arms bearers of the region thought of themselves as Danes—which makes nonsense of the events of 993, when three generals were singled out as *half* Danish. That is not to say that no one in the northeast ever felt Danish, but the evidence that they did so is less good than apparently authoritative modern translations and interpretations suggest. Too many of such interpretations depend on unstated, intuitive premises, such as the idea that loyalty to ethnic roots outweighs loyalty to the king and community of the kingdom in which one lives. There is also too much intuitive reasoning, like that which deduces the original intentions of a general from the course his campaign takes. While Kappelle has argued that the earlier raids of Aethelred's reign spared the northeast because it was Danish, Stenton thought that Svein started there in 1013 because he expected that the "men of Danish England would be prepared to welcome a Danish king, and that a base established in their country would be secure."³² Either deduction might be correct, but neither need be, and they seem to proceed from different premises. In the event, the impeccably English south (except for London) submitted quite quickly to Svein too, and Cnut started his invasion of 1015 there, while Edmund Ironside afterward got an apparently quick submission at one stage from the allegedly Danish Five Boroughs. Perhaps ethnic origins were not the only factors at work.

Postulating that permanent inhabitants of the kingdom were normally considered

to be English may also make sense of a third episode in Aethelred's reign: the Saint Brice's day massacre of 1002. Stenton found the king's order to kill all the Danish men in England futile as well as repugnant: "Within more than a third of England no order of this kind could ever have been carried out. York and Lincoln, for example, were Danish rather than English towns."³³ But the author of the Life of Saint Oswald did not think that York was Danish. To him Danes were either the wicked invaders of the kingdom or the most numerous group among the foreign merchants who visited the city.³⁴ The intended victims of the massacre were surely not those who might have had a Danish ancestor but visiting aliens or, at most, recent immigrants. Those among the Danes, thus defined, at whom the royal directive may have been primarily aimed were people like Pallig, who, just a year before, had deserted King Aethelred in spite of all the gifts of gold and silver he had received from the king and had joined up with an invading force to terrorize the southwest.³⁵ Fury with Pallig, and fear of other fifth columnists like him, might explain the massacre.

Cnut's reign, like William I's later, brought in foreigners who probably continued to be thought of as foreign in so far as they retained homes and interests elsewhere. It is not surprising, therefore, that Cnut referred to some of his subjects as Danes. Whether any of the children of Danes who settled permanently at that time went on being thought of as Danes is doubtful, as it is for earlier generations. In Edward the Confessor's reign the reasons why any earl favored a Danish, Norman, or any other alliance must have shifted over the years as political circumstances at home and abroad changed. Personal links with Denmark may have influenced some, but we should be wary of assuming, for instance, that Scandinavian names in Godwin's family are evidence that the family "represented the Anglo-Danish interest." There does not seem to be any reason either, except perhaps the apparently Norse origin of the words *butsecarl* and *lithsman*, to suppose that Edward the Confessor's fleet was "foreign, probably Viking."³⁶ *Housecarl* is also a Norse word by origin, but that does not mean that members of royal bodyguards from Cnut's time on were themselves all Scandinavians any more than, in later history, all dragoons were French. Some of Cnut's followers no doubt were, but then he was said, as one might expect, to have drawn his soldiers from all his realms.³⁷ Some at least, therefore, are likely to have been, or become, or been thought of as English. The origins of words are a poor guide to the birthplace or loyalties of those they describe.

* * *

Ten sixty-six marks the end of what is called “the Anglo-Saxon period.” It would be impossible, at the end of an article that has already skimmed over some 600 years, to embark on the controversies that have long raged around the changes that resulted from the Norman Conquest. One suggestion may, however, be made very briefly. Some of the problems about the Conquest seem to be made worse by the tendency to opt for package deals for continuity or change, without close enough examination of the ideas that lie behind old interpretations and that continue, so long as they are unexamined, to influence new ones. It is surely impossible to believe any longer, as pre-Marxists believed, that a military conquest by a relatively small aristocracy can change class structures and relationships significantly while the basis and nature of the economy remains the same. Economy, society, and government were changing all over western Europe in the eleventh and twelfth centuries. With some variations in timing and character, many of the changes traditionally associated with the Norman Conquest took place in other countries too. Post hoc may not mean propter hoc. In some spheres, of course, it may. In the arts, for instance, the importance of patronage combined with the regional diversity of styles suggests that conquest by new patrons could help to explain some of the changes that undoubtedly occurred. Yet it was possible to come away from the recent exhibition of English Romanesque in London with nagging doubts about the supreme significance of 1066 and about the reigns of kings thereafter as useful divisions of time in tracing the evolution of artistic styles. Even in architecture, where regional styles are particularly clear and Norman looks so different from “Anglo-Saxon,” may not the contrast be exaggerated by the destruction of all the grander English churches built in the century before 1066? In the purely political sphere, on the other hand, where some changes that followed in the long run can be connected more or less plausibly to the Norman—and Angevin—links of future kings, the long run involved many contingent events that were not foreordained by the conquest of 1066.

However all this may be, so far as the sense of Englishness and English solidarity are concerned, the chief change that followed from the Conquest was that relative peace and unity were succeeded by war, destruction, and division. It was the best part of a century before the inhabitants of the kingdom of England could once more be assumed to be a single people—the English. When the solidarity of the kingdom was rebuilt, it was based on the same assumptions and ideas as had underlain the solidarity of the years before 1066: the English people

were a people because they formed a kingdom. If theirs was more united than some other kingdoms, that was because, before 1066 as well as after, the government traditionally commanded and received a good deal of obedience. William I did not conquer a hyphenated or compound kingdom of Anglo-Saxons. He conquered the kingdom of the English, and although during most if not all of his reign those who thought of themselves as English remained dangerously hostile to his army of occupation, it was the kingdom of the English that he and his successors continued to rule.

* * *

The conclusion may be brief. The “Anglo-Saxon period” is too long and contained too much change to form a significant unit for study—a coherent “period.” If it is held to begin with the end of the *pax romana* in Britain, then it certainly begins with a real break in civil life, but the sense in which one could say that the “Anglo-Saxon” period begins then is not immediately apparent. The people we call the Anglo-Saxons can barely be identified at that stage. Not until almost two centuries later do we know that the English, or English Saxons, were beginning to perceive themselves and be perceived as a unit. Until the tenth century their sense of unity was frequently undermined by political conflict, and we cannot assume that they had a manifest destiny of political unity. When a single kingdom was formed in the tenth century within boundaries that more or less approximate those of what we think of as England, it was called the kingdom of the English—not of the Anglo-Saxons, nor yet of the Anglo-Danes. Right through the “Anglo-Saxon period,” therefore, the term “Anglo-Saxon” invites us to beg questions and confuse our own ideas with those of the period we study. It would be overpresumptuous to attempt to stop the terminological world of historians—let alone of the general public—and try to get off; but even if we must continue to use a name that has become well established in tradition, we might do well to remember that the early medieval English did not call themselves Anglo-Saxons. If we want to call them that, we ought to think hard about what we mean, and what others may think we mean, by the name that we have chosen to use.

AFTERTHOUGHTS

p. 397: On the German kingdom’s lack of a name see afterthought to II.

p. 384. pp. 398, 401-2: M. Richter, ‘Bede’s *Angli*: Angles or English’, *Peritia*, 3

(1984), 99-114, produces more arguments for the early use of the name Saxons, including by the inhabitants of south-eastern Britain themselves, than I suggested.

- p. 401 (comparative evidence on language change) and 403-4 (scale of immigration): H.R. Loyn, *Anglo-Saxon England and the Norman Conquest* (London 1962, 1991 edn. substantially unchanged), 5-14, sets out the problem posed by the language change. Since 1962 much archaeological evidence of continuity has appeared and has generally been interpreted to mean a large survival of the British population: see e.g. B. Yorke, *Kings and kingdoms of early Anglo-Saxon England* (London, 1990), 7 and, less strongly, P. Kirby, *The earliest English kings* (London, 1991), 12-14. Neither discusses the change of language. Conclusions drawn from archaeological evidence alone (or even from archaeological and place-name evidence) are less convincing than they would be if they took the language change into account. D. Dumville, *Britons and Anglo-Saxons* (Aldershot, 1993), III. 3, 6, 10-11, alludes to it (cf. IX. 7 on the problem of what he calls 'the biological, or racial, relationship between the Anglo-Saxon rulers and their peoples'). On this last point, cf. T. Charles-Edwards, 'Early medieval kingships in the British Isles', in *The origins of Anglo-Saxon kingdoms*, ed. S. Bassett (Leicester, 1989), 28-39, at 34.
- p. 405, 406: on 'great kings' or 'bretwaldas': S. Fanning, 'Bede, *imperium* and the Bretwaldas', *Speculum*, 66 (1991), 1-26.
- p. 406-8: See now P. Stafford, 'Danes and the Danelaw', *History Today* (October 1986), 17-23. Gneuss, '*Anglicae linguae interpretatio*', *Proc. Brit. Academy*, 82 (1992), 139, discusses 'mutual intelligibility' between English and Norse invaders.
- p. 408, n. 23: I should also have cited R.H.C. Davis, 'East Anglia and the Danelaw', *Trans. R. Hist. Soc.* ser. 5,5 (1955), 23-39.
- p. 410, n. 28 (on *fyrð* and *here*): N. Hooper, 'The housecarls in England in the eleventh century', *Anglo-Norman Studies*, 7 (1984), 165.
- p. 413, n. 37: See Hooper, as in afterthought on n. 28, above.

¹ Though it is noted, e.g., by D. Bullough in *Artemis Lexikon des Mittelalters* (Munich, 1980-), vol. 1, cols. 619-20.

² See, e.g., H. A. MacDougall, *Racial Myth in English History* (Hanover, N.H., 1982).

³ See M. Bloch, *The Historian's Craft* (Manchester, 1967), p. 159.

⁴ I discuss this briefly in *Kingdoms and Communities* (Oxford, 1984), pp. 289-92.

⁵ Though note Eadwig's reference to (apparently) the Northumbrians as *aquilones Saxones* (W. de G. Birch, ed., *Cartularium Saxonicum* [London, 1885-99], no. 926).

⁶ For example, J. M. Kemble, ed., *Codex Diplomaticus Aevi Saxonici* (London, 1839–48), nos. 705, 714, 736, 770, 787, 793, 1308.

⁷ P. Wormald, “Bede, the *Bretwaldas*, and the Origins of the *Gens Anglorum*,” in *Ideal and Reality in Frankish and Anglo-Saxon Society*, ed. P. Wormald with D. Bullough and R. Collins (Oxford, 1983), pp. 99–129.

⁸ This is argued by S. Reynolds “Medieval *Origines Gentium* and the Community of the Realm,” *History* 68 (1983): 375–90, and (for the period after 900) in *Kingdoms and Communities*, pp. 256–331.

⁹ For example, C. Hills, “The Archaeology of Anglo-Saxon England in the Pagan Period: A Review,” *Anglo-Saxon England* 8 (1979): 297–329; D. N. Dumville, “Sub-Roman Britain: History and Legend,” *History* 62 (1977): 173–92; P. Sims-Williams, “The Settlement of England in Bede and the Chronicle,” *Anglo-Saxon England* 12 (1983): 1–41.

¹⁰ The only work I have found that comes near to discussing it is U. Weinreich, *Languages in Contact* (The Hague, 1966). More may well have been published since, but the fact that such works do not seem to be cited in discussions of the change from British to Old English may explain my concern.

¹¹ Gildas, *The Ruin of Britain*, ed. M. Winterbottom (Chichester, 1978), s.v. “Saxon,” “Scot,” and “Pict.”

¹² *Oxford English Dictionary* 3:179; T. Miller, ed., *Old English Version of Bede’s Ecclesiastical History*, *Early English Text Society*, O.S., 95 (London, 1890), e.g., pp. 40, 70, 108, 110.

¹³ T. H. Parry-Williams, “English-Welsh Loan-Words,” in J. R. R. Tolkien et al., *Angles and Saxons: O’Donnell Lectures* (Cardiff, 1963), pp. 71, 73; W. Rees, “Survival of Ancient Celtic Custom in Medieval England,” in *ibid.*, p. 148. J. R. R. Tolkien, “English and Welsh,” in *ibid.*, pp. 9–12, however, expresses a different view.,

¹⁴ Bede, *Historia Ecclesiastica* 3.10, 21, ed. C. Plummer (Oxford, 1896), 1:146.

¹⁵ Wormald. It would be tedious and ungrateful to argue about small points, but it is not quite correct to say that Bede described the common vernacular as Saxon. He calls the language of Wessex or Essex Saxon, but when he is talking of the common language—one of the four languages between which Britain was divided—he normally refers to it as that of the English (*Anglorum*) (see Plummer, ed., s.v. *Anglorum lingua*, *Saxonom lingua*).

¹⁶ Wormald.

¹⁷ H. M. Chadwick, *Origin of the English Nation* (Cambridge, 1907), pp. 88–89; see also, e.g., F. M. Stenton, *Anglo-Saxon England*, 3d ed. (Oxford, 1971), pp. 33–35, 202, 236–37; P. H. Blair, *Introduction to Anglo-Saxon England* (Cambridge, 1962), pp. 49–54, 201–4; E. John, *Orbis Britanniae* (Leicester, 1966), pp. 1–63; and P. H. Sawyer, *From Roman Britain to Norman England* (London, 1978), pp. 48, 99–114. I have discussed the influence of modern nationalist ideas on the writing of medieval history in *Kingdoms and Communities* (n. 4 above), pp. 7–8, 250–56.

¹⁸ H. R. Loyn, *The Vikings in Britain* (London, 1977), p. 113. D. Ó Corráin, *Ireland before the Normans* (Dublin, 1972), p. 105, accepts this as the standard view in order to make comparisons with Ireland.

¹⁹ Stenton, p. 506.

²⁰ For example, D. Whitelock, introduction to *English Historical Documents*, ed. D. C. Douglas, 2d ed. (London, 1979), p. 48.

²¹ On Edward’s reign, see, e.g., F. Barlow, *Edward the Confessor* (London, 1970), pp. 89, 92–93, 102, 191–92; and W. E. Kapelle, *The Norman Conquest of the North* (London, 1979), pp. 28–29, 47; on incomplete unity, see Kapelle, pp. 12–15; and R. A. Brown, “The Norman Conquest,” *Transactions of the Royal Historical Society*, 5th ser., 17 (1967): 109–10, 116–20.

²² A Mawer, "Redemption of the Five Boroughs," *English Historical Review* 38 (1923): 551–57, argued the case with particular reference to 942 but applied his argument more or less explicitly to a longer period. Stenton was commenting on 942 when he referred to "the antagonism between Danes and Norsemen, which is often ignored by modern writers, but underlies the whole history of England in this period" (p. 359). He also mentioned "an aristocracy of Norse extraction" around York as a survival of the Norse kingdom there but elsewhere referred to York in 993 as a Danish town (pp. 358, 380). It seems to be generally agreed that the Danelaw included Yorkshire.

²³ See the references listed by F. Liebermann, ed., *Die Gesetze der Angelsachsen* (Halle, 1916), 2:51, 347–48. The translations in A. J. Robertson, ed., *Laws of the Kings of England from Edmund to Henry I* (Cambridge, 1922), sometimes impose a geographical meaning where it is not always clear in the text: e.g., pp. 118 (8 Aethelred 5.1) and 156 (1 Cnut 3.2). The documents printed by Stenton in *Documents Illustrative of the Social and Economic History of the Danelaw* (London, 1920) do not, to judge from the index, refer to the Danelaw at all. For the boundary of the geographical Danelaw, see R. H. C. Davis, "Alfred and Guthrum's Frontier," *English Historical Review* 97 (1982): 803–10.

²⁴ An obvious example of a boundary between supposedly Danish and English institutions that fails to follow the boundary of the geographical Danelaw as traditionally defined by historians is that between hundreds and wapentakes. Other anomalies are implied by the concept of "English Northumbria," which may even have been devised to accommodate them. The Five Boroughs also raise difficulties. How far and for how long they were perceived as Danish is doubtful. The "confederation of the Five Boroughs" may have been a consistently defined entity from around 942 to 1015 or later, but the only contemporary references are three in the *Anglo-Saxon Chronicle* (942, 1013, 1015 [J. Earle and C. Plummer, eds., *The Saxon Chronicles Parallel* (Oxford, 1892), 1:110, 143, 146]) and one in a law (3 Aethelred 1.1 [Robertson, ed., p. 64]). These give less information than one might expect from modern histories, while the reference to Seven Boroughs in 1015 suggests some elasticity of constitution. The language of 3 Aethelred is apparently heavily Scandinavianized, in contrast, e.g., to that of 1 Aethelred (see P. Wormald, "Aethelred the Lawmaker," in *Ethelred the Unready*, ed. D. Hill, British Archaeological Reports, British series, 59 [Oxford, 1978], p. 61); but arguments that, though issued at Wantage and self-evidently assuming royal authority over Danes, it nonetheless represents the essentially Danish custom of the "territory of the Five Boroughs" (see Stenton, pp. 508–12) involve a good deal of circular reasoning about the Danishness of the area, the difference between Danish and English custom, the boundaries of royal authority, and the continuing political importance of ethnic divisions in general.

²⁵ For example, Robertson, ed., pp. 32, 36 (4 Edgar 2.1.2; 12); D. Whitelock, ed., *Anglo-Saxon Wills* (Cambridge, 1930), pp. 44–46; cf. *Anglo-Saxon Chronicle*, 918A, 920A (in Earle and Plummer, eds. [1:104], as 922, 924).

²⁶ See Earle and Plummer, eds., s.v. *Dene*, *Denisc* (*the scip here of 980* was presumably Scandinavian, though not identified by nationality; and see also the *wicinga* of 982).

²⁷ P. Stafford, "Reign of Aethelred II," in Hill, ed., 17–21, suggests causes of provincial resentment against Wessex in the later tenth century quite irrespective of Danishness.

²⁸ A *here* was not invariably Danish: see *scip here* and *land here* in the glossary of Earle and Plummer, eds.; and in annals for 684E, 910E (*ibid.*, 1:95: this entry may be a slip), 1052CD (*ibid.*, 1:175, 178, 179), and 1054CD. In some cases where a *here* is not described as Danish (though it is often translated by Whitelock as "a Danish army"), the context shows that it was or was perceived as such (e.g., annals 896A, 903, 992). In 917 a *micel here* included both *þæt land here* and *þara wicinga* they enticed to join them, though in this case the *land here* may perhaps have been more Danish than the *folc* of the country they dominated. *Here* may sometimes have had the particular sense of an army in the field, especially a rebellious or invading army: cf. Ine 13.1, 15.1 (F. L. Attenborough, ed., *Laws of the Earliest English Kings* [Cambridge, 1922], p. 40), and annal for 917 (East Anglian and Mercian forces), though this would not apply, e.g., to 4 Edgar 15 (Robertson, ed., p. 38), or to all the examples given above. Note also *ut here* and *unfriðhere* in annals 1009C and a

possible link with the verb *hergian*. There does not, however, seem to be any reason why *fyrð* (or *folc*, another word that could be used for an army) and *here* should have consistently been used with mutually exclusive meanings (a *fyrde* could have *heretogan*: annal 993CDE) or that, if they were, ethnic connotations were uppermost in the user's mind.

²⁹ Florence of Worcester, *Chronicon*, ed. B. Thorpe, English Historical Society (London, 1848–49), 1:150–51.

³⁰ *Anglo-Saxon Chronicle*, ed. and trans. D. Whitelock with D. C. Douglas and S. I. Tucker (London, 1961), p. 92.

³¹ See n. 28 above.

³² Kapelle, *The Norman Conquest of the North* (n. 21 above), pp. 14–15; Stenton, pp. 384–85.

³³ Stenton, p. 380.

³⁴ J. Raine, ed., *Historians of the Church of York*, Rolls Series, 71 (London, 187–994), 1:454, 455.

³⁵ Earle and Plummer, eds., 1:132 (1001A); cf. William of Malmesbury, *Gesta Regum*, ed. W. Stubbs, Rolls Series, 90 (London, 1887–89), 1:207.

³⁶ Barlow (n. 21 above), pp. 89, 92–93, 170. I do not understand what is meant by “Englishmen in disguise” (p. 191).

³⁷ E. A. Freeman, *History of the Norman Conquest of England*, 3d ed. (Oxford, 1877), app. KK, 1:756.

IV

Eadric Silvaticus and the English Resistance

EADRIC *silvaticus*, *salvagi*, or the wild is one of the better-known leaders of English resistance to the Norman Conquest. In the D version of the Anglo-Saxon Chronicle he is said to have joined the Welsh in attacking the garrison of Hereford in 1067 and to have inflicted great losses. Here he is described as Eadric ‘cild’ but Plummer and Earle suggest that ‘cild’ is, given the context, probably a slip for ‘se wilda’.¹ The Worcester chronicle, written fairly early in the twelfth century but based on a lost version of the Anglo-Saxon Chronicle, has a little more information, which seems to reflect local knowledge: Eadric ‘cognomento silvaticus’, a ‘praepotens minister’, was the son of Aelfric brother of Eadric Streona. Because he refused to surrender, the Norman garrison of Hereford, with Richard fitz Scrob, frequently laid waste his lands while he as often attacked them. His Welsh allies are named and his ravages of Herefordshire in August 1067 are said to have reached the river Lugg. In 1070 he made peace with the king and in 1072 went with him on the invasion of Scotland.² Orderic Vitalis, writing at about the same time as John of Worcester, introduces Eadric as ‘cognomento guilda id est silvaticus’ and mentions his relationship to Eadric Streona, but says that he surrendered to William immediately after the coronation. Eadric’s subsequent rebellion, when he attacked Shrewsbury along with other fierce Englishmen and with the Welsh and men of Chester, then appears as part of a wider resistance. Orderic does not mention Eadric’s later submission but the association of the rebellion with Shrewsbury suggests that he may have derived that bit of his account from stories he had heard in his own Shropshire childhood.³

Domesday Book mentions ‘Edric salvage’ as the former tenant of six manors in Shropshire and one in Herefordshire.⁴ Some of the many estates held *tempore regis Edwardi* by other, unidentified Edrics in these counties, if not elsewhere, may also have belonged to him.⁵ Eyton identified him with the Eadric who was described in Domesday merely as a free man (‘liber homo’) who had held some

of Ralph Mortimer's lands, but whom the fourteenth-century Wigmore abbey chronicle calls earl of Shropshire and lord of Wigmore and Maelienydd. According to the chronicle, which is clearly very garbled, this Eadric was captured by Ralph after long struggles and handed over to the king for life imprisonment, some of his lands afterwards descending to the abbey. He may not have lost all his estates: Eyton commented that 'a genealogical enthusiast would have little hesitation in assuming as a conclusion' the possibility that William le Savage, who held Eudon Savage, Neen Savage and Walton Savage of the Mortimer fee in the twelfth century, was a descendant of Eadric.⁶

One last reference to Eadric which seems to have independent value comes from Walter Map. Writing about the eleven-eighties Walter told a story about him which, underneath its supernatural plot, seems to have a basis of historical reality. 'Edricus wilde quod est silvestris', so called from his physical agility and the mirthfulness of his words and deeds ('jocunditate verborum et operum'), was a man of great probity and lord of Lydbury North (Salop) during William I's reign. He married a fairy but left a wise and holy son Aelfnoth (Alnodus), who became paralysed in old age, was cured at the shrine of St. Ethelbert, and therefore gave his estate to the church of Hereford.⁷ Walter added that Lydbury was said to be worth £30 a year to the bishop at the time of writing. The only reason for doubting his story—apart from what concerns Eadric's wife, which was of course its chief point—is that according to Domesday the manor of Lydbury had belonged to the see since the time of Edward the Confessor, though a part of it was held from the bishop in 1086 by a free man ('quidam franco') and William the clerk. Possibly Aelfnoth, who was evidently piously remembered at Hereford, was at some time a life-tenant of the bishop, and the story about Eadric became connected with Lydbury by the clergy because Aelfnoth was his son.⁸

Historians have generally treated Eadric's surname as a nickname, describing his personal qualities, and in this they thus have the authority of Walter Map. Walter may, however, have been rationalizing a description of forgotten origin.⁹ A more likely explanation of it is that Eadric was one of a group of people well known in their own day as *silvatici*. Orderic Vitalis says in his description of the English risings of c. 1068-9 that many of the rebels lived in tents, disdaining to sleep in houses lest they should become soft, so that certain of them were called *silvatici* by the Normans.¹⁰ Although this comes just after a reference to the northern rebellion Orderic does not seem to mean that the *silvatici* were restricted to the north. He has also said that the English leaders sent messages all over the

country to raise support and he is not the only chronicler to make it clear that the English resistance was very widespread or to describe the rebels as taking to the woods and marshes.¹¹ The Abingdon chronicle says that many plots were hatched by the English and that some hid in woods and some in islands, plundering and attacking those who came their way, while others called in the Danes, and that men of different ranks took part in these attempts. Some of the abbey's own men were captured on their way to join in.¹² The Evesham chronicle tells how William, early in his reign, wasted Yorkshire, Cheshire, Shropshire, Staffordshire and Derbyshire because of the outlaws ('exules') and robbers who hid in the woods and did much damage to many people, so that great crowds came to Abbot Aethelwig for succour.¹³ William of Malmesbury makes Edwin and Morcar themselves disturb the woods with secret robberies, rather than meet William in open combat.¹⁴ According to the twelfth-century versions of his legend Hereward, after he left Ely, retreated to the woods and lived as an outlaw with a large following.¹⁵

Not all these remarks are of independent or equal authority, but there is no reason to doubt the substantial truth of the picture they draw. For some years the Conquest must have looked very insecure. When William left for Normandy in 1067 his military conquest had hardly gone much beyond the Thames, and a good many of the English nobles who—like Eadric in Orderic's account—had already submitted were later to revolt. National solidarity had developed at a political level before the Norman invasion,¹⁶ but, given the lack of leadership, guerrilla warfare was the best the English resistance could manage by now. That they should have made their bases in wild country and, like the twentieth-century *maquis*, have been named for it, is perfectly credible. How many *silvatici* later surrendered and were restored to some sort of legal if inferior position, as Eadric seems to have been, cannot be known. His nickname may imply that he was unusual at least in the publicity of his submission. In any case the movement had presumably lost its effective political character by 1075, when the rebellion of the earls met with little English support.¹⁷ If it is true, however, that the *silvatici* were for some years a widespread and well-known phenomenon, that might help to explain aspects of later outlaw stories that have puzzled historians. Few outlaws in other countries have apparently left so powerful a legend as Robin Hood. The nearest parallels are said to be figures 'on the epic scale who could be transformed into politically conscious national heroes of a type very unlike'

him.¹⁸ Even if the stories about Robin Hood himself originated in real events of the thirteen-thirties, as has recently been suggested,¹⁹ they could have gained some of their unusual force from association with older stories of heroes who had once resisted foreign invaders. The anomalous social position of the later, legendary Robin might also owe something, as Dr. M. H. Keen suggested, to these older stories.²⁰ The most famous outlaws of the greenwood before him were probably the Old English nobility on their way down and out.²¹

AFTERTHOUGHTS

C. Edwards, 'Heinrich von Morungen and the fairy-mistress theme', in *Celtic and Germanic Themes in European Literature*, ed. N. Thomas (Lewiston, 1994), 13-30, at 24, draws attention to Burchard of Worms' reference to the belief in *agrestes feminas, quas sylvaticas vocant, quas dicunt esse corporeas*, who showed themselves to their would-be lovers, and who then disappeared (*Decretum*, XIX. 5, in *Pat. Lat.* 140, col. 971). If this usage was known further west, or if Walter Map could have read of it, it might help to explain his combination of Eadric as the hero of a fairy-tale with Eadric as a rebel *sylvaticus*.

p. 104: Richard fitz Nigel, *Dialogue of the Exchequer*, ed. C. Johnson (Oxford, 1983 edn.), 52, tells how for some years the English lay in wait for the Normans and murdered them secretly in woods and remote places.

p. 104-5: Professor P. Stafford drew my attention to Eadric, king of the ceorls, outlawed by Cnut (*Two Saxon Chronicles*, i. 154-5 (1017 D, E; 1020 C; Florence of Worcester, *Chronicon*, ed. B. Thorpe (London, 1848), i. 181.

¹ *Two of the Saxon Chronicles Parallel*, ed. C. Plummer and J. Earle (2 vols., Oxford, 1892-9), i. 200, ii. 259

² *Florentii Wigorniensis Monachi Chronicon*, ed. B. Thorpe (2 vols., Eng. Hist. Soc., 1848-9), ii. 1, 7, 9. For its date and authorship, see A. Gransden, *Historical Writing in England*, c. 550 to c. 1307 (1974), pp. 39, 144, and works there cited: especially *The Ecclesiastical History of Orderic Vitalis*, ii, ed. M. Chibnall (Oxford, 1969), p. 186n. A reference in *De controversia ... inter Ricardum le Scrope et Robertum Grosvenor*, ed. N. H. Nicolas (2 vols., ?-1832), i. 229 seems to be derived from a copy of the Worcester chronicle at Bardney priory.

³ *Eccles. Hist.*, ii. 194, 228. Eadric's submission after Christmas 1066 comes in a passage where Orderic's chronology and geography may be at fault: *ibid.*, p. 195n.

⁴ *Domesday Book* (4 vols., Record Comm., 1783-1816), i, fos. 183V, 253V, 256, 256V, 258V: 'salvage' is in each case interlined after 'Eadric',

⁵ E. A. Freeman, *The Norman Conquest* (6 vols., Oxford, 1867–79), iv app. 1 pp. 738–41; *Feudal Documents from the Abbey of Bury St. Edmunds*, ed. D. C. Douglas (1932), pp. xci–xciii; J. F. A. Mason, ‘Edric of Bayston’, *Trans. Shropshire Archaeol. Soc.*, lv (1954–6), 112–18.

⁶ R. W. Eyton, *Antiquities of Shropshire* (12 vols, in 11, 1854–60), iii. 48–50, iv. 194. An extract from the chronicle is in W. Dugdale, *Monasticon Anglicanum*, ed. J. Caley and others (6 vols., 1817–30), vi. 348–9; cf. *Medieval Libraries of Great Britain*, ed. N. R. Ker (1964), p. 198; *Complete Peerage*, comp. G. E. Cokayne and others (13 vols., 1910–59), ix. 271n.

⁷ Walter Mapes, *De Nugis Curialium*, ed. T. Wright (Camden Soc., 1, 1850), pp. 79–82. For the identification of Lydbury (‘Ledburia borealis’, ‘Ledibiria’) see *Victoria History of Shropshire*, i. 290–1.

⁸ *Domesday Book*, i, fo. 252; but see comments by E. S. Hartland and J. E. Llwyd in M. R. James’s translation of *De Nugis Curialium* (Cymmrodorion Soc. Record ser., ix, 1923), pp. 78–9, 82n, and the alternative version of the bishop’s acquisition of Lydbury (*Giraldi Cambrensis Opera*, ed. J. S. Brewer (8 vols., Rolls Ser., 1861–91), iii. 422–3). For William the clerk and other life tenants of the bishop of Hereford see V. H. Galbraith, ‘An episcopal land-grant of 1085’, *Eng. Hist. Rev.*, xlv (1929), 353–72. For the 12th-century vicissitudes of the bishop’s tenure of Lydbury (including the grant of the advowson to what later became Wigmore abbey) see Eyton, xi. 194–6.

⁹ As Hartland suggested. For possible meanings of the various words see R. L. G. Ritchie, *The Normans in Scotland* (Edinburgh, 1954), p. 311; *Anglo-Saxon Dictionary*, comp. J. Bosworth and T. N. Toller (Oxford, 1898), s.v. *wilde*; *Oxford English Dictionary*, s.v. *savage*; *Glossarium Du Cange* (7 vols., Paris, 1840–50), s.v. *sylvaticus*.

¹⁰ *Eccles. Hist.*, ii. 216–18.

¹¹ *Eccles. Hist.*, ii. 216–36.

¹² *Chronicon Monasterii de Abingdon*, ed. J. Stevenson (2 vols., Rolls Ser., 1858), i. 485–6.

¹³ *Chronicon Abbatiae de Evesham*, ed. W. D. Macray (Rolls Ser., 1863), pp. 90–1.

¹⁴ William of Malmesbury, *De Gestis Regum Anglorum*, ed. W. Stubbs (2 vols., Rolls Ser., 1887–9), 311.

¹⁵ Gaimar, *L’Estoire des Engleis*, ed. A. Bell (Anglo-Norman Text Soc., xiv–xvi, 1960), 11. 5457–61, 5547–8; ‘Gesta Herwardi’ in Gaimar, *L’Estorie des Engles*, ed. T. D. Hardy and C. T. Martin (2 vols., Rolls Ser., 1888–9), i. 372, 392–3. For the dates of composition, see Gransden, pp. 209, 275.

¹⁶ *Two Saxon Chronicles*, i. 175 (D), 180–1 (C, D).

¹⁷ *Ibid.*, p. 211 (D, E); *Flor. Wig.*, ii. 11.

¹⁸ *Rymes of Robin Hood*, ed. R. B. Dobson and J. Taylor (1976), p. 274.

¹⁹ J. R. Maddicott, ‘The birth and setting of the ballads of Robin Hood’, *Eng. Hist. Rev.*, xciii (1978), 276–99.

²⁰ M. H. Keen, *Outlaws of Medieval Legend* (1961), pp. 23–38; recent writing on the subject is surveyed in Dobson and Taylor, pp. 30–6.

²¹ Like the later stories (see n. 15) the E version of the chronicle (*Two Saxon Chronicles*, i. 205) refers to Hereward and his gang ‘genge’) as outlaws.

V

Magna Carta 1297 and the Legal Use of Literacy

MAGNA CARTA 1297 has never attracted much attention.¹ The new demands and concessions which were made in the political conflicts of the year have—rightly—aroused much more interest than the mere reissue of charters that clearly, by then, did not cover all the forms of oppression that worried Edward I's subjects. There is, however, at least one point about the charter itself which raises issues that deserve consideration. On 12 October 1297 the Great Charter and Forest Charter (though this article will not be concerned with the Forest Charter) were, as it is generally expressed, 'reissued' in almost exactly the same words as in 1225.² The text of the Great Charter followed that of 1225, to quote Rothwell word for word ... except for a few verbal differences, interesting as suggesting access to a 1217 text also or to a somewhat purer 1225 text than that printed ... but (with one exception) affecting neither the sense nor the translation. The exception is a deliberate change to 100 marks instead of 100 pounds as the relief for a barony in clause 2.³

But this deliberate change, as Rothwell calls it, is very odd—much odder than he or anyone else, except perhaps Bémont, seems to have realized.⁴ The document is, as Rothwell's heading in *English Historical Documents* notes, an *inspeximus*. That is, it is a charter which says that the grantor confirms a previous charter which is quoted, supposedly word for word, within his own.⁵ The form gives no room for amendment except in the end, in the grantor's own clauses of confirmation. You cannot retrospectively change the actual text which you are confirming by *inspeximus*. The change of the baronial relief in the text of clause 2 of the 1225 charter must, therefore, be either a deliberate falsification or a mistake. There would surely be no point for the government in deliberately making what Professor Holt calls 'a sharp change in policy',⁶ and would have been designed as a concession, in a furtive manner. If the government had intended to

reduce baronial reliefs it would rather have done so in the document known—confusingly—as the Confirmation of the Charters, which had already been conceded by the king’s son a couple of days before.⁷ A deliberate reduction might perhaps have been inserted furtively on behalf of the barons, but, again, it is difficult to see the point or to envisage the means: far more likely, surely, that if the opposition had felt strongly about the matter they would have pressed for it openly now that they had brought the government to bay. Then they would be assured that the exchequer would know about it and there would be no need for subsequent wrangling on individual cases. That was the point of charters of liberties.

It is the contention of this article that the change in relief was a mistake, a mistake which may have been made first in a less well-known *inspeximus* issued in 1265 but, if so, was then probably forgotten and was made again in 1297. It will be argued that the mistake arose because the charter of 1225 was not enrolled and because a good many of the copies of it which were around in 1297, including perhaps copies in collections of statutes kept in the chancery, had the baronial relief wrong. What is more it seems likely that it was not until 1300, when the same figure, derived presumably from the enrolment of the 1297 charter on the Statute Roll,⁸ was repeated in another *inspeximus*, that what had happened became generally known and accepted. This remains a hypothesis rather than a conclusion, and one which will appeal chiefly to those who adhere to a muddle theory of history rather than a conspiracy theory, but the material is so bulky and complex and raises so many questions of a wider nature that it seems worth inviting their consideration by others. The argument will take the form of attempts to answer two questions. First, what reliefs were paid on baronies before and after 1297? Second, what can be discovered about texts of the 1225 charter which may have been available in 1297 to be used for the *inspeximus*?

First, the reliefs actually paid. Before 1215, as is well known, though £100 was occasionally accepted, they were sometimes much higher.⁹ As Professor Holt has pointed out, the repetitiousness of clause 2 in the 1215 charter suggests that the opposition bargained then for a lower baronial relief, which may have been a hundred marks.¹⁰ The fact that some heirs, at least in the reigns of Henry II and Richard I, had got away with reliefs at this level, adds force to his argument.¹¹ It may be that some people thought or hoped that the original charter of 1215 said 100 marks. If they did, we know they were wrong: £100 was what was laid down

both in 1215 and in the three reissues of 1216, 1217 and 1225, while, whatever anyone thought had been agreed or ought to have been agreed, those who owed baronial reliefs seem to have accepted that £100 was what they had to pay. Although much larger sums were occasionally charged and holders of relatively poor baronies sometimes got away with smaller ones, that remained the norm until about 1265. From then on the actual sums charged are often omitted from fine, originalia and pipe rolls,¹² though sometimes the memoranda rolls contain records of the arguments that could be needed in order to establish that an heir owed a baronial relief. The primary reason for argument, even before the record became less complete, was that the exchequer had no list of baronies. Instead they worked from precedent. By the twelve-nineties, though heirs were sometimes asked to produce charters which might establish their title and service, the normal procedure was to search the rolls for the last relief and then to charge the same. This must have become all the harder when only the memoranda rolls, in all their bulk and complexity, were likely to provide an answer, but it cannot always have been straightforward to start with. Sometimes the date of the last succession may have been wrongly or vaguely remembered, and if the heir then had been a minor it would be necessary to go one generation further back.¹³ As some baronies were accumulated in a few hands and many were divided, it became necessary to sort out complex genealogies and the exchequer found itself arguing with heirs about quarters of half baronies, thirds of quarters, and so on. Although the rolls show that some accumulated and divided fiefs were indeed charged proportionately, some baronies may have got lost. On the other hand it is highly unlikely that the exchequer could have got away with charging relief at the baronial rate on an estate which had not paid it before. Estates owing either full baronial reliefs or fractions of them probably tended therefore to become less numerous as time passed.

This in itself may have made baronial reliefs less of a hot political issue as the century wore on. Inflation must have had the same effect, while the government outflanked the restriction on reliefs by imposing fines for seisin which must sometimes have made the reliefs themselves look paltry.¹⁴ Not that heirs to baronies or parts of baronies therefore paid up quickly or as a matter of course: what with failures to answer summonses to court, with respites for debts because of an heir's service in the army, and then with delays needed to produce charters, find precedents and work out family histories, some cases dragged on for years. By the twelve-nineties the result was a rich combination of rigidity, uncertainty

and delay. Given the imperfections of the record and the comparative rarity of baronial successions,¹⁵ it is obvious that any sudden change in the rules is likely to be difficult to trace.

Nonetheless, though a fuller search of the rolls might produce greater certainty, the evidence already found is suggestive. Just before the regular recording of the sums stopped, Painter found the record of three reliefs of £100 in 1263 and one of 100 marks in 1265. This, together with occasional records of £100 charges in Edward I's reign, led him to hazard a guess that the barons may have forced Henry to make a concession in 1264, but that Edward repudiated it, until he in turn was forced to give way in 1297.¹⁶ If the lower rate was granted before 1297, however, it was probably in 1265, not 1264. What seems to be the first *inspeximus* of the 1225 charter was issued on 13 March 1265, at the end of Simon de Montfort's last parliament. One copy exists in a statute collection and it gives the relief as 100 marks, though, as we shall see, that need not mean that the charter as issued said the same thing.¹⁷ Whatever the explanation of the 100 marks payment that Painter found in 1265 he seems to have been right in thinking that £100 was once again being charged in the first part of Edward I's reign and as late as 1296.¹⁸ In Michaelmas term 1297—most of which fell after the *inspeximus* was granted—orders were issued to levy debts on reliefs which had earlier been assessed at the old rate.¹⁹ If anyone had the deliberate intention of putting a lower figure into the charter then the exchequer either ignored it or was genuinely unaware of it. Thereafter, as it so happened, no new cases which could test the issue were to come to the point of argument before 1299.

In the meantime, however, one slow payer was, in consideration of his services to the king, allowed in September 1298 to go on paying off his old debt on the terms originally agreed, in spite of his previous defaults.²⁰ In this case the total debt was not reduced, but two months later, just a year after the *inspeximus*, a member of the king's household, William Russel, was granted terms of payment on two half- baronies at fifty marks for each. It looks as if he at least may have had an idea of what the charter had said and had used his influence to try to benefit from it, but if so he did not succeed: the grant was cancelled before it had been enrolled at the exchequer.²¹ By 1299, though the heirs to at least two estates continued to delay their settlements in 1299 in the normal way so that no discussion of their obligations arose,²² things were beginning to change. During the summer, a case had to be postponed because the barons of the exchequer did not have a sealed

great charter of liberties by them and were therefore in doubt about the relief due from a barony.²³ Presumably the heirs concerned had claimed to pay at the marks rate and the exchequer had been nonplussed to find that the copy of the charter in their own collection of statutes agreed with the debtors' claim although all the precedents were against it.²⁴ The following Michaelmas another case shows the court by now satisfied that the charter said marks, but unsure whether baronies should be charged accordingly or rather in pounds, 'as they were accustomed to be charged before the confirmation of the same charter'. The case was postponed so that the barons of the exchequer could discuss the problem with the king.²⁵ A year later, in October 1300, over six months after another inspeximus of Magna Carta had been issued in March 1300, the king told the exchequer that his father's great charter of liberties, which he himself had confirmed and renewed, was to be observed in all its articles.²⁶ In 1301 two cases for baronial relief came up, one of them being that of the William Russel who had made a bid for the reduced rate in 1299. Both he and the other baronial heir were now allowed to pay at that rate and a memorandum was made after the entry of Russel's case that, because of the king's order to keep the charter, and although the rate had hitherto been £100, baronies would in future pay only 100 marks, since this was what the charter said.²⁷

The rule seems now to have been established, though the conflict between the authority of Magna Carta and the authority of precedent continued to be recorded on occasion in a manner that does not imply that the reduction in reliefs was seen as new in principle. So far as the exchequer was concerned, precedents could be—and had to be—ignored on the authority of the charter, backed by the king's explicit order that it was to be kept.²⁸ It was not apparently felt necessary to say which great charter was meant—1225, 1297 or 1300. Meanwhile the force of precedents could be used to bring defaulters to court: some were threatened that, if they did not come, they would be charged at the same rate as their predecessors. One whose case had hung on for years and who had actually been charged at the marks rate in 1302 had to argue the whole issue again in 1304 to avoid going back to pounds.²⁹ His argument suggests that he thought the old rate had been wrong even before 1297—just another example, presumably, of royal oppression and breach of the charters.³⁰ Perhaps heirs to baronies had for many years been accepting the old level less because they thought it right than because, whatever they thought the charter said, they had to settle with the exchequer as best they

could. Perhaps as late as 1298 William Russel had been trying to defeat what he thought of as an exchequer abuse rather than trying to take advantage of a new concession. It was not until 1299 that arguments on the ground of the charter were recorded and not until after the *inspeximus* of 1300 and the king's explicit order to obey 'the great charter' that they won.

The second question posed at the beginning of this article concerned the texts of the 1225 charter likely to have been available in 1297. The 1225 charter was not enrolled. In 1297, therefore, either someone must have produced an original issued from the chancery in 1225 or the chancery clerks would have used a copy. To take originals first—an original in this context meaning a sealed document issued from the chancery, whether or not in multiple copies. There seem to be three surviving chancery originals of the 1225 charter. The two which are generally known contain only small variants from each other. Another document, which is probably an original, has rather more, but, like the others, it gives the baronial relief as 100.³¹ In 1297 there must have been many more originals about:³² the city of London should have had one close at hand and so may the archbishop of Canterbury. On the whole, however, originals were probably kept too safe for easy access. By 1297 copies must have been both more readily available and more numerous.³³ Some copies were made on single membranes for publication and display. Although the charter of 1225 had been formally confirmed at least nine times in Henry III's reign, a full text seems to have been issued in *inspeximus* only in 1265.³⁴ Copies may well have been made locally when confirmations were read to shire courts as well as on other occasions when sheriffs were ordered to have the charter read out publicly and preserved.³⁵ Matthew Paris put what may be a copy made in connection with the confirmation of 1253 or with the order of 1255 into his *Liber Additamentorum*.³⁶ It ranks high for accuracy, barring two small omissions of two or three words each, and has the baronial relief right. Another fairly accurate text, including the right £100 figure and followed by the Forest Charter on the same small single membrane, could have been made for a similar purpose.³⁷ There is also a very odd document which, after an imperfect preamble from the 1217 charter, continues with a roughish version of the 1225 text (including the baronial relief at 100 marks), a list of witnesses that looks garbled for any date, and the date 11 February 36 Henry III (1252).³⁸ All the mistakes in it could be paralleled from copies in

books of statutes and the 1225 charter had also been issued on 11 February.³⁹ Maybe it was copied for publication from a statute book. In 1279 the archbishop of Canterbury ordered copies of the charter to be put up in cathedrals and collegiate churches and then recopied and replaced annually. Although the king soon put a stop to this, it suggests that texts were thought to be readily available and became still more plentiful in the course of the year.⁴⁰

Copies in books, however, and especially in books of statutes, were probably the most numerous and most likely to have been used in 1297. Of the thirteenth-century statute collections consulted,⁴¹ a large majority give the baronial relief as 100 marks. It is now probably impossible to say more about how the mistake arose than to guess that it could have arisen from the grievances and negotiations of 1215. The survival of what looks like an early draft of the Runnymede charter, entered in a statute book as the real thing, but with the wrong (100 marks) figure could be evidence for this.⁴² However it happened the mistake must be seen in the context of the wide variety of other errors that crop up in the book texts.⁴³ The variant readings range from small variations in word order right up to what look to us gross muddles—like conflations of 1217 and 1225 similar to that in the single membrane document supposedly issued in 1252.⁴⁴ Apart from the baronial relief, which is wrong even in one or two texts which seem to have been carefully copied in terms of word order and minor word changes,⁴⁵ and apart from the 1217/1225 muddle, there are several other variations which occur in more than one text. Occasionally, for instance, clause 27 from the 1215 charter, which had protected the goods of intestates but was omitted from later issues, is inserted.⁴⁶ In clause I, where the king says that he has granted the freedom of the English church to God, three of the texts add St. Mary and all saints.⁴⁷ Quite a few refer to the writ *precipe* in clause 24 (i.e. clause 34 of 1215) as *precipe in capite*.⁴⁸ This was the form used by the time the texts were written and would have made better sense to scribes without any particular interest in historical niceties.⁴⁹ The same goes for some which gave the king's tides in the form appropriate after the treaty of Paris, without Normandy and Anjou.⁵⁰ Again, it was a sensible sort of mistake in thirteenth-century terms.

All these errors, large or small, careless or sensible, comprehensible or inexplicable, come in various combinations in the sample used.⁵¹ Furthermore, no

two texts have been found which share the same homoeleutons. The consequent failure so far to construct any families or *stemmae* of texts may be caused by the smallness of the sample. It may also be the result of carelessness. But despite these qualifications—or disqualifications—the survey suggests that there were a large number of exemplars of Magna Carta around for scribes to use, whether originals, single-membrane display copies or book copies, and that most scribes were not tremendously concerned to follow their exemplars exactly. The charter mattered, but what mattered to both compilers of statute books and writers of chronicles was its gist, not its exact words.⁵² Compilers of statute books seem to have been just as carefree and confused in their copying and miscopying as chroniclers. This seems to raise significant questions about the uses of literacy by the nascent legal profession, for whom some of the collections were presumably made, and about their ideas of law. An investigation of standards and practices in copying different sorts of books, including statute collections, could illuminate the history of both literacy and law. In the meantime it may be pointed out that Matthew Paris seems to have been rather unjustly criticized for his treatment of the charters. He was certainly opinionated and it was certainly odd to call his best copy of the 1225 charter ‘Magna Carta regis Johannis’,⁵³ but his other texts are no more confused than many in statute books, including some of those probably kept in the exchequer.⁵⁴

What mattered to most copiers of statutes and of Magna Carta was the law as it stood—or as they thought it stood—not how or when it had got there. At the moment of new legislation changes might be controversial, as parts of Magna Carta certainly were, and the exact terms might be important, as in the case, obviously, of the level of baronial reliefs early in the thirteenth century. The omissions of ‘weighty and doubtful’ matters from the 1216 charter, the changes made in 1225 to the regulations about the petty assizes and the arguments in Lincolnshire in 1226 about the holding of the county court all show that contemporaries sometimes worried about details. But some of the appeals to the charter suggest a scant knowledge of just what was in force. As the details of the crisis of 1215 faded from memory and ‘the charters’ became a general symbol of the rule of law, the distinctions between the different versions must have become blurred.⁵⁵ It is no joke to check the texts even with the help of Stubbs, Bémont and the *Statutes of the Realm*, and without them, and without any clear constitutional narrative into which one could fit any text or texts one might happen to have at hand, it would have been excessively hard.⁵⁶ Scribes simply wanted to

get the text of what they thought of as 'the Great Charter' down and, before the issue of inspeximus became a tradition, they had no standard method of coping with versions bearing different dates.

Later on a method was evolved and it was one which precisely illustrates the indifference to past change. By the end of the century scribes who copied out collections of statutes reckoned to keep them up to date when an inspeximus was issued by 'topping and tailing' the text of Magna Carta with the new preamble and new date, without apparently checking through the contents. That this was all they generally did is confirmed not only by the survival in later texts of the variants already mentioned, but also by the position in which most of them left the Great Charter. Even when they had topped and tailed it for 1297 or 1300, they left it at the beginning, before the Statute of Merton, in the position suitable for the original entry of the 1225 text.⁵⁷ It may be that the texts conflating 1217 and 1225 form some kind of early version of this method though they look as if they had been topped and tailed, as it were, in reverse. The only text that seems to survive of the 1265 inspeximus, and which, like many others, has the baronial relief wrong, may have been written twenty years or more later but is probably a topped and tailed version of 1225.⁵⁸

In October 1297 an acute political crisis made it necessary to issue an inspeximus at short notice. On 10 October, when a confirmation in general terms was issued, along with additional articles, the inspeximus which would come only two days later was not mentioned. Whether or not its issue was decided on only in those two days there was clearly little time for careful search of records. If none of the opposition happened to be waving an original 1225 charter which the chancery clerks were prepared to use and they therefore had to rely on a book copy and, presumably, find one quickly, the odds were strong that they would use one with the baronial relief wrong. What they did use is uncertain. The new charter was in most other respects remarkably accurate. Some of the small variations from the 1225 text could have come from the surviving text not used in *Statutes of the Realm* and others could have come from a lost chancery original. But, given the generally careful copying in the surviving originals of 1215, 1217 and 1225, it does not seem very likely that a lost one had the relief wrong.⁵⁹ All the variants, including the reduced relief, could have come from book versions. Disappointingly, they do not correspond exactly with those in the only surviving manuscript now thought to derive from a collection of statutes held in the chancery at the time. That, however, may be because the book in its present form is much

later (and has the charter topped and tailed for 1300), so that variants—including the relief in marks—could have crept in after 1297.⁶⁰ If the chancery clerks had borrowed a copy from the exchequer they would probably have still got the baronial relief wrong. The exchequer Red Book, it is true, had a very good text, with the right relief,⁶¹ but the book which Richardson and Sayles thought then served as the exchequer's principal statute collection has a pretty bad one which confuses 1217 and 1225 as well as getting the relief wrong.⁶² There must have been exchequer officials around who had themselves dealt with baronial reliefs and could have put their colleagues in the chancery right but, even if it were likely that clerks in one department would have consulted those in another, it was the essence of the politics of 1297 that reference to exchequer practice would have been irrelevant. The government was being attacked for breaking the charters. If people thought, as well they might, that the charter of 1225 had put the baronial relief at 100 marks, then exchequer practice was one more example of governmental injustice.

If these arguments are convincing then the reduction of the baronial relief in 1297 may be seen as a good case of the force of muddle in human affairs and, consequently, also as a warning against deducing motives and policies from formal documents which merely record results in the way that so often has to be done in medieval history. It also raises questions about habits and uses of literacy that deserve further study. Study of early statute collections could help us understand more about the use of writing and the slow and patchy inculcation of new habits of verbal exactitude. This was a time when law was ceasing to be the property of all sorts and conditions of men and was becoming something much more exact and esoteric, so that, in the words of Maitland, by 1272 it was already threatening to 'become a commentary, an evasive commentary, on antique writs and statutes'.⁶³ Statute books could help us understand how that was happening.

¹ An earlier draft of this article was read as a paper at the second Newcastle conference on 13th-century England in Sept. 1987. I am grateful to members of the conference for their comments and suggestions, and also to Professor J. C Holt for his comments on a draft version.

² The clearest accounts of the events and documents of the crisis are J. G. Edwards, 'Confirmation Cartarum and baronial grievances in 1297', *Eng. Hist. Rev.*, lviii (1943), 147–71, 273–300 and M. Prestwich, *Edward I* (1988), pp. 426–30

³ *English Historical Documents*, iii: 1189–1327, ed. H. Rothwell (1975), p. 487. The printed text referred to is *Statutes of the Realm* (11 vols, in 10, Record Comm., 1810–28), i, Charters, pp. 22–5

⁴ *Chartes des libertés anglaises* (1100–1305), ed. C. Bémont (Paris, 1892), p. 47 n. 6

- ⁵ See *Statutes*, i. 104–5
- ⁶ J. C. Holt, *Magna Carta* (Cambridge, 1965), p. 211, though he refers to it as made in ‘the Confirmation of the Charters’
- ⁷ Edwards, p. 16211
- ⁸ *Statutes*, i. 114
- ⁹ Holt, *Magna Carta*, pp. 107–8, 207–8
- ¹⁰ *Ibid.*, p. 211; cf. V. H Galbraith, ‘A draft of Magna Carta (1215)’, *Proc. British Acad.*, liii (1967), 345–60
- ¹¹ For 100 mark reliefs (e.g. *Pipe Rolls 2–4 Henry II*, ed. J. Hunter (1844), pp. 14, 73; P.R. 9 *Hen. II* (Pipe Roll Soc., vi, 1886), p. 31; P.R. 2 *Ric. I* (Pipe Roll Soc., xxxix, 1925), pp. 57, 58, 66, 116; P.R. 6 *Ric. I* (Pipe Roll Soc., new ser. v, 1928), p. 36 and cf. pp. 63, 193; for £100 reliefs, e.g. P.R. 18 *Hen. II* (Pipe Roll Soc., xviii, 1894) p. 73; P.R. 32 *Hen. II* (Pipe Roll Soc., xxxvi, 1914), p. 18; P.R. 5 *Ric. I* (Pipe Roll Soc., new ser. iii, 1927), p. 90; P.R. 6 *Ric. I*, p. 193; P.R. 7 *Ric. I* (Pipe Roll Soc., new ser. vi, 1929), pp. 109, 111.,
- ¹² I. J. Sanders, *English Baronies: a Study of their Origin and Descent, 1086–1327* (Oxford, 1960), p. vi; S. Painter, *Studies in the History of the English Feudal Barony* (Baltimore, Md., 1943), pp. 61–3
- ¹³ See e.g. Public Record Office, E 368/77, mm. 61, 69, cited in T. Madox, *History and Antiquities of the Exchequer* (1711), p. 37on. (on pp. 372–4), where the rest of Madox’s note illustrates the difficulties
- ¹⁴ R. Stacey, *Politics, Policy and Finance under Henry III, 1216–45* (Oxford, 1987), pp. 217–19
- ¹⁵ With about 200 potential baronies (S. Painter, *The Reign of King John* (Baltimore, Md. 1949), P-Sanders, pp. ix–xi) and 25-year generations about 8 cases a year seem likely. In the 1290s there were many fewer.
- ¹⁶ Painter, *Studies*, pp. 21–3
- ¹⁷ British Library, Harley MS. 489 fos. 4–8; see below n. 34.
- ¹⁸ Painter, *Studies*, p. 63. I have not searched the memoranda rolls before 1292–3, but see e.g. Madox, *Exchequer*, p. 219; *idem*, *Baronia Anglica* (1736), pp. 47n., 48n; Sanders, pp. 14 n. 4, 37 nn. 1–2; references to earlier cases in P.R.O., E 368/72, m. 36; E 368/73, m. 20d. I may have missed some cases after 1292, but for 1292–6 see e.g. P.R.O., E 368/64, mm. 14, 22, 30d; E 368/66, m. 40; E 368/68, mm. 14d, 84d
- ¹⁹ P.R.O., E 368/69, m. 114 (Mucegros: cf. E. 368/64, m. 14; Mortein: cf E 368/66, m. 40).
- ²⁰ *Ibid.*, E 368/70, m. 17 (Abadam: cf. E. 368/68, m. 14d).
- ²¹ *Calendar of Fine Rolls*, i. 407 (not found on P.R.O., E 368/70); M. Prestwich, *War, Politics and Finance under Edward I* (1972), p. 45
- ²² P.R.O., E 368/70, mm. 43, 44d (Mortein, Frevill: heirs of Philip Marmion).
- ²³ *Ibid.*, E 368/70, mm. 43, 57, 65 (Fauconberg). The case was still undecided in 1302 (E 368/71, m. 24d; E 368/73, m. 20d).
- ²⁴ For exchequer book copies, see below nn. 61–2
- ²⁵ P.R.O., E 368/71, m. 20 (Grey), quoted, with insignificant inaccuracies, by Bémont, in *Chartes*, p. 47n, on p. 48. After enquiries into the heir’s other holdings (m. 38), he was respited because of war service (E 159/73, m. 19: not found in the corresponding part of E 368/71). I have not traced his case further.
- ²⁶ P.R.O., E 368/72, m. 12.
- ²⁷ *Ibid.*, E 368/72, m. 36 (Zouche, Russel).
- ²⁸ E.g. *ibid.*, E 368/73, mm. 14d (Frevill), 20d (Biset, Fauconberg, Tatesale, or more legibly in E 159/76, m. 54), 43d (Mortimer); E 368/74, mm. 27d, 29 (Botiller, Frevill: heirs of Philip Marmion), 29d (Meules); E 368/77, mm. 49d (Ratyndon), 61, 69 (Breouse).

²⁹ Eg. *ibid.*, E 368/73, m. 20d (Fauconberg); E 368/74, m. 27d (Marmion heirs).

³⁰ ‘... Radulphus ad hoc dicit quod licet prefata Johanna se permisit aliter onerari quam decuit nolens quod pro se habuit allegandum vel ignorans, hoc ei preiudicare non debet Dicit enim quod tunc temporis relevia baroniarum onerabantur hie de C libris set dominus rex super magnam cartam de libertatibus Anglie, in qua continetur quod pro relevio integre baronie baronis C marce tantum exigantur, confirmavit et in omnibus suis punctis teneri precepit et iuxta hoc debetur de relevio... Et barones hoc fieri concordarunt’ (*ibid.*, E 368/74, m. 27d, partially quoted in *Chartes*: cf. n. 25 above)

³¹ The author has seen the charter at Durham (D) only in the facsimile in *Statutes*, i, Charters, between pp. 22 and 23. The other original is Brit. Libr., Additional MS. 46144, formerly at Lacock abbey (L). The texts seem to be very carefully collated in *Statutes*. The other probable original is Bodleian Library, MS. Middlesex Charters 1 (B). It has no seal but a repair at the foot is where the slit would have been. Though B has more variations of words or word order (excluding spellings or variant forms of words which could be explained by varying ways of extending abbreviations) some of its readings are shared by each of the others. It seems more like an original than a copy made later for display. L contains several corrections over erasures, one of which (‘eodem modo eam’ in c. 31) results in a different reading from D, which omits ‘eam’. Clause numbers hereafter are taken from *Chartes* but readings from *Statutes* because Bémont does not note all the variants noted in *Statutes* and introduces one or two minor errors of his own.

³² Holt, *Magna Carta*, pp. 165–8, 248–9, 313–15

³³ L was deposited at Lacock abbey by the knights of Wiltshire (*Chartes*, p. 45).

³⁴ Brit. Libr., Harl. MS. 489 fos. 4–8; Cotton MS. Claudius D ii fo. 128v; cf. *Documents of the Period of Baronial Reform and Rebellion*, ed. R. E. Treharne and I. J. Sanders (Oxford, 1973), p. 312. Brit. Libr., Cott. MS. Vespasian B xi fo. 42 may refer to a confirmation (real or supposed) later in 1265 (or perhaps in 1266, connected with the Dictum of Kenilworth?). The list of ‘reissues’ and confirmations in F. Thompson, *First Century of Magna Carta* (Minneapolis, Minn., 1925), p. 116 refers only to confirmations in 1265, 1297 and 1300, not to ‘reissues’, i.e. inspeximus. F. M. Powicke, *Thirteenth Century* (2nd edn., Oxford, 1962), index sub Charters of Liberties, does not distinguish ‘reissues’ and confirmations clearly. Contemporaries also confused them (*Holt Magna Carta*, pp. 288–9).

³⁵ *Patent Rolls* 1247–58, pp. 280, 281; *Close Rolls* 1254–6, pp. 194–5

³⁶ Brit. Libr., Cott. MS. Nero D i fo. 199v, which looks as if it was originally a loose membrane. Prof. Holt refers to it both as ‘an authentic chancery exemplification’ (J. C. Holt, ‘The St. Albans chroniclers and Magna Carta’, *Trans. Royal Hist. Soc.*, 5th ser., xiv (1964), 67–88, at p. 81) and as ‘the sole known original of the confirmation of 1253’ (*ibid.*, p. 82). An exemplification (i.e. surely a certified copy issued in a sealed charter, without the confirmatory clauses of an inspeximus) would, however, have needed a new preamble, witnesses and date even if it had been suitable for a royal charter. An ‘original’ issued in 1253, if an inspeximus, would similarly need a top and tail. If the king had issued the charter anew, rather than confirming the 1225 text, it could not have been witnessed by ‘Stephen archbishop of Canterbury and many others’. Either way it would have needed a new date (though the sealing fold and slit could have been cut off). There is, however, no record of an inspeximus and the bishops did not apparently include any text with their sentence of excommunication (*Annales Monastici*, ed. H. R. Luard (5 vols., *Rolls Ser.*, 1864–9), i-305–6). Brit. Libr., Cott. Nero D i fo. 199v also has rather more variants (including small omissions in cc. 8 and 28) than any of the three apparent 1225 originals.

³⁷ Society of Antiquaries, MS. 544. One oddity is the insertion of ‘P de Ripar’ in the witness list; three other witnesses have wrong initials. The Forest Charter ends with *Testibus supranominatis* and no date at the foot of the membrane, but sewing holes show that there was once something more

³⁸ Brit. Libr., Cott. MS. Augustus ii, no. 51, printed in *Statutes*, Charters, pp. 28–30: the Table of Charters suggests that the editors felt some misgivings in deciding that this was a chancery original. For the text of 1217

see *ibid.*, pp. 17–19. Only one original (now Bodl. Libr., MS. Glos. Charters 8) is referred to there but Bodl. Libr., MS. Oxon. Charters Oseney 142b and c still each had one of their two seals attached to them in 1913 and must be originals (R. L. Poole, The publication of the Great Charters by the English kings', *Eng. Hist. Rev.*, xxviii (1913), 444–53). The seals are now kept separately. Both end *Testibus prenomatis et aliis multis*'.

³⁹ Holt, *Magna Carta*, pp. 288–9. The date of Bodl. Libr., MS. Additional C188 (15 Feb. 49 Hen. III) could have been similarly affected by the 1265 inspeximus, though the three witnesses named come from the 1225 list Brit. Libr., Add. MS. 32085 (15 Feb. xli (for 49?) Hen. III, with same witnesses) may be a still more garbled version.

⁴⁰ M.T. Clanchy, *From Memory to Written Record* (1979), p. 213

⁴¹ A small fraction of those that survive and only some of those kindly identified for me by Dr. Paul Brand

⁴² Galbraith, p. 348

⁴³ Statute collections apparently from before 1297 which have been consulted are Brit. Libr., Harl. MSS. 409, 489, 1033; *ibid.*, Add. MSS. 38821, 32085; *ibid.*, Stowe MS. 386; P.R.O., E 164/9 (Exchequer Liber X); Bodl. Libr., MSS. Add. C 188, Rawlinson C 820. All these have 100 marks, as does the Black Book of Christ Church Dublin, probably written before 1294 (Holt, *Magna Carta*, p. 212n.; A. Gwyn, 'Some unpublished texts from the Black Book of Christ Church, Dublin', *Analecta Hibernica*, xvi (1946), 296–301). Collections from after 1297, which have texts purportedly deriving from the 1297 or 1300 inspeximuses (all with 100 marks), are Brit. Libr., Cott. MS. Claud. D ii; *ibid.*, Hargrave MSS. 422, 433, 434; Corporation of London Record Office, Liber Horn (on which see H. G. Richardson and G. Sayles, The early statutes', *Law Quart. Rev.*, 1 (1934), 201–23, 540–70, at p. 541; N. R. Ker, *Medieval Manuscripts in British Libraries*, i: London (Oxford, 1969), p. 27) and Liber Custumarum (on which see N. R. Ker, 'Liber Custumarum, and other manuscripts formerly at the Guildhall', *Guildhall Miscellany*, i (1952–9), 37–45). All of these except Hargrave 422 have variants which apparently derive from pre-1297 copies and therefore may have first been entered before 1297. Brit. Libr., Add. MS. 11712, though after 1299, has a text conflating 1217 and 1225 without emendation to fit the later inspeximuses. Copies in chronicles etc. which have been checked are Matthew Paris, *Chronica Majora*, ed. H. R. Luard (7 vols., Rolls Ser., 1872–83), ii. 589–98; Brit. Libr., Cott. MS. Vitellius A xx fos. 93V–97, 99–101; *ibid.*, Cott MS. Nero D i fo. 199v (on all of which see Holt, 'St. Albans chroniclers'); *Chronicle of Walter of Guisborough*, ed. H. Rothwell (Camden 3rd ser., lxxxix, 1957), pp. 165–8; Brit. Libr., Cott. MS. Vesp. B xi (Hagnaby chronicle) fos. 42–43v; *ibid.*, Add. MS. 15668 (Newent cartulary) fos. 25V–26. Only the last says £100. The wording in Bracton, *De Legibus et Consuetudinibus Anglie*, ii, ed. G. E. Woodbine and S. E. Thorne (Cambridge, Mass., 1968), p. 244, suggests that the writer took his remarks about reliefs from a text of the charter giving 100 marks.

⁴⁴ H J. Lawlor, 'An unnoticed charter of Henry III, 1217', *Eng. Hist. Rev.*, xxii (1907), 514–18; F. M. Powicke, The Chancery during the minority of Henry III', *ibid.*, xxiii (1908), 220–35; Richardson and Sayles, pp. 541–2. Apart from the texts they mention, Brit. Libr., Hargrave MS. 433 fos. 8–15V and Bodl. Libr., MS. Rawl. C 820 fos. 4–8 have the 1217 date but not the preamble, while Brit. Libr., Harl. MS. 1033 fos. 14–16V has the 1217 preamble (with the king's title in its post-1259 form) and both the 1225 and 1217 dating clauses in that order. In both clauses the dates seem slightly wrong: respectively 10 (for 11) Feb. and 2 (for 6) Nov. For Matthew Paris's conflations see Holt, 'St. Albans chroniclers' and below n. 54.

⁴⁵ E.g. Brit. Libr., Cott. Vit A xx fos. 99–101 (which also has some careful corrections); *ibid.*, Stowe MS. 386 fos. 2–3 v (though accuracy of detail is here combined with two homoeutons and muddled correction of a third).

⁴⁶ *Ibid.*, Stowe MS. 386 fo. 3; *ibid.*, Add. MS. 32085 fo. 8; *ibid.*, Hargrave MS. 433 fo. 12; Bodl. Libr., MS. Rawl. C 820 fo. 6; Corp. of London, Liber Horn fo. 22, in each case in the right place (between cc. 18 and 19). Matthew Paris, *Chronica Majora*, ii. 595 and Brit. Libr., Cott. MS. Vit. A xx fo. 95 both have the clause because at this point they are following 1215.

⁴⁷ ‘... concessimus Deo et beate Marie et omnibus sanctis’, Brit. Libr., Add. MS. 32085 fo. 7; *ibid* Harl. MS. 1033 fo. 14; Bodl. Libr., MS. Add. C 188 fo. 1.

⁴⁸ P.R.O., E 164/9 fo. 48v; Brit. Libr., Lansdowne MS. 467 fo. 5v; *ibid.*, Add. MSS. 32085 fo. 8v, 11712 fo. 7v; *ibid.*, Hargrave MSS. 422 fo. 23v, 433 fo. 13r-v; *ibid.*, Cott. MSS. Vesp. B xi fo. 43, Claud. D ii fo. 141; Bodl. Libr., MSS. Add. C 188 fo. 2v, Rawl. C 820 fo. 6v, *Chronicle of Walter of Guisborough*, p. 166.

⁴⁹ M. T. Clanchy, ‘Magna Carta, clause 34’, *Eng. Hist. Rev.*, lxxix (1964), 542–7.

⁵⁰ Brit Libr., Harl. MS. 1033 fo. 14; *ibid.*, Lansd. MS. 467 fo. 4V; Bodl. Libr., MSS. Add. C188 fo. 1, Rawl. C 820 fo. 4.

⁵¹ Cf. the MSS. listed in nn. 43–8, 50, above

⁵² Cf. Richardson and Sayles, pp. 541–4, 548–55; Powicke, ‘Chancery’, p. 235.

⁵³ Brit. Libr., Cott. MS. Nero D i fo. 199v; Matthew Paris, *Chronica Majora*, v. 375–7.

⁵⁴ The alterations made in the margin of Brit. libr., Cott. MS. Vit Axx fos. 93v–97 (= Holt’s VI) seem to this author an intelligent and careful attempt to produce a 1215 text from what had started as a not uncommon sort of conflation. For exchequer texts, see below nn. 61–2.

⁵⁵ Holt, *Magna Carta*, pp. 249, 271–92

⁵⁶ The London MS. Ker called MS. D seems exceptional in having included the 1215, 1217 and 1225 charters in straight chronological order. The scribe included the text of 1225 only from c. 37, saying—with substantial accuracy—that up to there its content was contained in 1217 (Corp. of London, *Liber Custumarum* fos. 27v–30; Ker, ‘*Liber Custumarum*’).

⁵⁷ For a different interpretation of the position of the charter see J. C. Holt, ‘The origins of the constitutional tradition in England’, in *idem*, *Magna Carta and Medieval Government* (1985), pp. 1–22.

⁵⁸ Brit. Libr., Harl. MS. 489 fos. 4–8. It comes before the Statute of Merton etc. I owe the suggestion of the date to Dr. Paul Brand.

⁵⁹ For 1225 and 1225 see *Statutes*, i, Charters, pp. 9–13 (collating 3 of 4 chancery originals), pp. 22–5 (collating 2; see above n. 31).

⁶⁰ Brit. Libr., Cott. Claud. D ii fos. 139–142v, a relatively accurate copy but with marks; Richardson and Sayles, pp. 209–15.

⁶¹ *Statutes*, i, notes to Charters, pp. 22–5 has been used for the text of the Red Book of the Exchequer, c£ Brit. Libr., Hargrave MS. 313 (13th-century copy of the Red Book, also with the relief right).

⁶² Richardson and Sayles, pp. 209, 541. If the argument about the random combination of variants is correct some of Richardson and Sayles’s arguments may be weakened, but there seems no reason to doubt that P.R.O., E 164 was an exchequer document and that the Dublin Black Book may also have come from a semi-official source (Gwyn, pp. 296–301)

⁶³ F. Pollock and F. W. Maitland, *History of English Law* (2nd edn., 2 vols., Cambridge, 1898), i. 220, 225

VI

The history of the idea of incorporation or legal personality: a case of fallacious teleology¹

This essay argues that the modern law about corporations or legal personality has been shaped less by advances in legal concepts or theories than by rules that were devised over the centuries to suit the practical needs of governments, lawyers, and their clients. This has been obscured, in my view, by a persistently teleological concentration on the origin of modern ideas that itself paradoxically depends on assuming a very over-simplified idea of how modern law actually deals with corporations. If it is right that the idea of envisaging entities other than individual human beings as ‘persons in law’ which can bear legal rights and duties ‘appears unremarkable to us because’, as an intellectual historian of the middle ages has put it, ‘the concept is one of our fundamental legal tools,’ it is not a tool that lawyers, let alone historians, seem to find very easy to use.²

The *Oxford Companion to Law* tries to give a reasonable and simple account of corporations in English law, but it has to point out that, while corporations are different from partnerships or persons acting as trustees, and from other unincorporated groups like clubs or societies, some such groups, such as trade unions, are so like corporations that they are sometimes called quasi-corporations. Having explained further that there are two main kinds of corporation, the corporation aggregate and the corporation sole (though some corporations aggregate have heads who are corporations sole), and that the corporation sole is not recognized by Scots law (except in cases created by statutes that apply to Scotland), it goes on to the method by which corporations are created. This starts out fairly simple. They are created by royal charter, letters patent, or statute - but not only in those ways. Corporations may also exist by prescription - a charter from the Crown, now lost, being presumed - or by custom.³ Maitland, among others, has exposed the problems of this fundamental tool of English law with wit and clarity in several essays. One, a paper delivered in 1903, contains a

characteristic anecdote. ‘Lately in the House of Commons the Prime Minister spoke of trade unions as corporations. Perhaps, for he is an accomplished debater, he anticipated an interruption. At any rate, a distinguished lawyer on the Opposition benches interrupted him with “The trade unions are not corporations.” “I know that,” retorted Mr Balfour, “I am talking English, not law.” A long story’, comments Maitland, ‘was packed into that admirable reply’.⁴ The law of legal personality in countries that follow the Roman law tradition may be less bizarre but it nevertheless has plenty of anomalies and problems.⁵ So far as the various juristic theories about legal personality have affected the actual law, they may have created more problems for it than they have solved.

It is not surprising that historians, like social anthropologists, sometimes get tied up when they talk about corporations or corporate groups. Sometimes they use the words without apparently implying any specifically legal capacities, as when they talk of groups with a corporate sense of solidarity, or define a corporation as ‘an enduring, presumably perpetual group with determinate boundaries and membership’.⁶ Sometimes, however, as when anthropologists refer to lineages as corporate or historians use the word corporation of groups like early-modern estates or orders, they seem to be influenced by modern legal use even if the groups they are discussing have only some (if any) of the attributes that might be associated with modern legal corporations. Medieval or early modern urban historians who explain that being a corporation meant being able to hold property for ever, have a seal, sue and be sued as if the group were a single person, and so on, are clearly thinking in terms of the positive law they know about within a specific legal system, and so are the anthropologists who use words like ‘corporation sole’ when discussing African political systems.⁷ But the legal rules and categories implied by these terms are not necessarily universal. It may be misleading to import terms from one legal system into another or to assume, even when we meet terms that look familiar, that they carry all the connotations that we expect. Nor should we assume that medieval lawyers, whether academic or practising, were feeling their way to our concepts. The problems they faced were different, so the solutions they propounded, however similar they may look, had different meanings for them.

* * *

Modern ideas about corporate groups or groups with legal personality start

from two premisses that were foreign to the European middle ages, as to many of the societies that social anthropologists study. The first is that rights in law normally belong to individuals, not to groups. Only if you start from the assumption that property, litigation, and so on are a matter for individuals do you find it necessary to explain group rights by treating groups as bodies or 'persons' or as having 'personality'. The other premiss is that there are some kinds of groups that are corporate, that can act as 'legal persons' or corporations, and some that are not. If any group could own property, go to law to defend it and so on there would be no need for the idea of the corporate group, the particular kind of group that has 'legal personality'.

That, I maintain, was the position in the early middle ages. Early medieval law was customary law - *unprofessional* customary law. It had general underlying principles but they were taken for granted rather than stated: they were general norms rather than what we would call legal rules. Such norms as I can detect by inference from records of legislation and disputes do not include anything about what groups as distinct from individuals could do. Early medieval society looks very collectivist in its assumptions: the idea that in the early middle ages the only or most important bonds of society were personal, that the strongest bond was that of lord and man (what historians call vassalage), and that there was no sense of the public welfare - *res publica* - is based, not on medieval sources, but on ideas about social evolution that made better sense in the seventeenth century than they do today.⁸ Deep-rooted as habits of collective action and collective responsibility were, they did not mean that rights were attributed only to groups rather than to individuals. Rather, people were not bothered about the distinction. The claims of both individuals and groups could be accepted or rejected by assemblies before which they came for judgement, but argument generally revolved around particular cases without explicit reference to general norms. Problems like the difference between individual and group rights were not confronted head on, and certainly not in a way that was likely to produce general rules about membership and its obligations.

Many groups that appear in the records as holding rights or owing obligations were very undefined: contemporaries seem hardly, if ever, to have worried whether the burgesses of a town were the same as its inhabitants or the members of its guild: property in town halls or guildhalls, like the right to share in privileges or the obligation to contribute to expenses, seems to have been attributed to all these categories in a way that suggests that people thought the difference between them insignificant. Groups could be held responsible and

punished just as they could be favoured. Individuals might try to get out of their share of obligations but there were no rules of law to help them: my impression is that membership was a matter for the group. So, normally, were any grievances of its members.⁹ All sorts of groups - townspeople, villagers, pious societies, groups of traders - held guildhalls, town walls, or common rights over land, in much the same way as groups of kinsmen held houses and arable land. Towns and rural communities of any size did justice among their members, which meant both judging and making law (or by-laws, to use the terms of later English law): the degree to which lords loomed over these groups varied, but law was supposed to embody the custom of the community. The whole community, or at least its leading members as its representatives, was therefore supposed to participate in judging and declaring law. When groups wanted to take their complaints against other groups or individuals outside the local community they did so, suing and being sued and being represented by some or all of their members. Generally those who represented a group would be its presiding officials together with other leading members, but there do not seem to have been any rules about this, though practical politics must have meant that any important or controversial decision or action was best done by as many and as senior members as possible.¹⁰

This applies to villages and even less definable rural groups as much as to towns. However vague most of us are about the actual law of corporations, we have phrases like 'the mayor and corporation' or 'municipal corporations' in the back of our minds, so that we tend to assume that towns are naturally and intrinsically more corporate than villages. But the sources do not suggest that there was at first any legal distinction in their position. A large and rich community settled on a strategic site within well-defended walls was more likely to be able to bargain for rights and freedom from obligations than was a group of horny-handed peasants in a small and muddy village, but townsmen did not start off with any more recognition of their right to be a group and negotiate as a group than did peasants. Nor were churches, even monasteries, seen as more intrinsically corporate than were lay collectivities. The church's property was supposed to be peculiarly perpetual and inviolate, but what made it so was that it belonged to God and the saint or saints to whom the particular church was dedicated, not that it belonged to an undying corporate group. Who actually had the right to manage the property - the bishop or the cathedral chapter, or, in the case of monasteries, the bishop or the abbot - was a problem that kept coming up and was solved by ad hoc decisions that only gradually began to acquire consistency. In making this

point about churches I am not saying anything new, but the implications seem to be ignored in most discussions of the origin of the idea of the corporation. The problems that the canonists would have in making sense of the precedents they confronted can only be understood against a climate of thought in which the rights and obligations of groups were seen in much the same way as those of individuals.

This was not because people could not see distinctions that were there all the time but were hidden from them. They did not ‘confuse’ the rights of groups and their members. For most purposes the two were the same. When they were not I suspect that people distinguished ad hoc and in a common-sense way between the interests or rights of, say, a town and its individual burgesses just as we know that they sometimes distinguished between those of a bishop and his church or a king and his kingdom. Distinguishing between the rights of a group and the rights of its members or between corporate and unincorporated groups is not primarily a matter of intellectual subtlety.¹¹ It is easily done in some cases, harder in others, but general rules of law about it are likely to be made only in political and economic conditions in which people with power need these distinctions and have the kind of servants who can work away at arguing and enforcing them. Theories about the nature of legal personality like the fiction theory, entity theory, and so on, are not really needed. To quote the Master again: ‘Legal ideas never reach very far beyond practical needs’,¹² and theories like these were no practical use to anyone - except possibly nineteenth-century Germans, to whom I shall return later.

* * *

From the twelfth century on, however, both rulers and subjects were beginning to find practical needs for a few general rules. Economic and demographic growth gave occasion for more conflict and the way conflicts were handled was affected by the keeping and use of records. Government at every level became more systematic and demanding. Rulers used literate servants to communicate and record their demands, and people who look increasingly like professional lawyers to justify and argue them, while those of their subjects who could afford to do so used other lawyers to argue back.¹³ Many towns and (outside England) a good many villages or other units of rural society began to bargain for privileges and demand to have their bargains recorded.¹⁴ Records suited rulers too: charters were good propaganda and they recorded obligations as well as rights. Any ruler who thought he had given away too much could hope that later on, charter or no

charter, he might be in a position to go back on his grants. Provided there was no one with effective jurisdiction over him he would only have to sway his own court to agree that he had good cause. That would be easier if he had bright lawyers to think up justifications.

Some rulers had no desire to grant anything. Bishops or abbots often had both practical and ideological reasons for reluctance to grant any measure of independence to the towns in which their churches stood. All rulers, whether lay or ecclesiastical, whether kings, nobles, or leading townsmen, were always more hostile to demands from people of low status. In medieval society lower status meant heavier burdens: the more a lord got from his subjects the less likely he would be to let them off their customary obligations and the less military support or money they could offer in exchange. Associations formed by peasants or craftsmen to press for reductions of dues and services, especially if they were put forward with a show of force or stubborn disobedience, were much more likely to seem subversive than were associations of respectable city fathers who could offer nice lump sums in exchange - raised, as often as not, chiefly from their poorer neighbours.

But it was the subversion or rebelliousness that caused trouble, not the mere fact of association, or even of being a sworn association, as such. Even in the later middle ages conflicts about group activity were not about the right to freedom of association or the legal capacity of the group as a group, but about the legality or subversiveness of what the group wanted to do.¹⁵ In north France and neighbouring areas in the late eleventh and early twelfth centuries the word *commune* became associated in the minds of rulers, especially ecclesiastical rulers, with dangerous disorder. In the thirteenth century it still occasionally had revolutionary overtones for some, but most kings and other lords distinguished different sorts of group according to their danger or usefulness, irrespective of the words applied to them. When French kings quashed communes it was not, as Petit-Dutaillis thought, because lawyers had produced une notion juridique that insisted on royal authorization for any commune (or, he implied, any other group) to enjoy legal personality.¹⁶ Towns or other local communities increasingly asked for and received charters to authorize their exercise of local government, but that was partly or largely because the practice of doing so was itself creating precedents which made charters desirable.

In so far as formal authorization was explicitly required it was not the groupness or 'legal personality' that needed it but the exercise of governmental

authority. Individuals were now having to get formal authorization just as much as communities were. Frederick I's statement that all jurisdiction and governmental authority were exercised by delegation from the emperor, like the English *Quo Warranto* proceedings in the thirteenth century, which imply the same point, made no distinction between authority exercised by individuals and by groups.¹⁷ Henry III of England apparently accepted that villages could litigate either through their lords or through three or four of their members.¹⁸ About a hundred years later Bartolus was doing no more than recognizing and articulating what less learned people took for granted when he said that the *populus* of a city, *castrum*, or *villa* was a *collegium* under the *jus gentium*. It therefore did not need permission to be one, even though *jus civile* required that other *collegia* did.¹⁹ In practice the degree to which towns and other communities were allowed to run their own affairs depended more on their political relations with superior authority than on being able to produce written evidence of formal delegation of authority. In France in 1273 the king's court (in defiance of what Bartolus would say) rejected a sealed proxy from the men of Lyon because, the court held, they had *nec communia nec universitas nec aliquod collegium*, but that was surely because they were locked in conflict with their archbishop. If the king had wanted to tax them he would probably have imposed a tax on the whole city, taking for granted both its collective responsibility and the authority of the leading townsmen to coerce their neighbours. Petit-Dutaillis's use of this case to illustrate what he assumed were recognized rules about seals illustrates the danger of working backwards from later rules. Monasteries, which seem to us so naturally corporate and seemed to contemporaries entirely unsubversive, did not always have seals and had to borrow them. Other groups that were totally unincorporable by our standards could have them and use them. About 1300 some Pisan prisoners of war in Genoa had a seal with an inscription that called them *universitas carceratorum Pisanorum Ianue detentorum*. Why not? They wanted to seal a plea for release and the seal was the seal of all of them. The word *universitas*, which, like commune, is often taken to imply some new and special kind of unity, was often used without any implication of political capacity or legal power. Letters might be addressed to all the children of holy mother church as *universitas vestra*.²⁰ Collective activity is only one of many subjects that medieval historians have confused by assuming that words have fixed meanings, which they often call technical meanings and which corresponded to fixed concepts and fixed phenomena.

* * *

By the thirteenth century, however, academic and professional lawyers were beginning to fashion the techniques that made ‘technical meanings’ at least a possibility - though such meanings would, of course, differ in the different discourses that took place within different jurisdictions. Canon lawyers seem to have been the first to grapple with the problems posed in making consistent rules about group responsibility. The reference to *collegia* and *societates* in the Roman law texts gave them some phraseology but precious little real guidance in distinguishing which groups in their own world ought to be recognized as lawful and what they could do or be made to do.²¹ For canon lawyers most of the problems posed by groups concerned disputed elections of bishops or abbots, the relative rights of the bishop or abbot and his chapter, especially in relation to church property, and the responsibility of members of a chapter or similar ecclesiastical group for the acts of its representatives. How could churches be protected from the misdeeds of their clergy? Could whole chapters or monasteries be excommunicated? The nature of the problems explains the particular interest of canonists in collective punishment and their relatively relaxed attitude to explicit authorization to form a *collegium*. The old idea that Innocent IV invented the ‘fiction theory’ of corporations is still sometimes repeated, but when he said that a *collegium in causa universitatis fingatur una persona*, so that its proctor could take an oath on behalf of it, he was using a metaphor to explain his point. The same applies to the suggestions of Aquinas that a *collegium hominum reputatur quasi unus homo* and that different men in a community were like different limbs of a body. Using the metaphor of a person or body is not the same as working out a theory of corporations in general as fictitious persons.²² One can see how the metaphor helped to bridge the gap between a theology of the sin and salvation of individual persons and the practices of collective activity and responsibility in the here and now that even canonists took for granted. Like all metaphors, however, when it got pushed too far it created more difficulties than it solved. The intellectual achievement of Innocent IV and his colleagues did not consist of their representing groups as persons, but in turning moral norms into legal rules. How far the distinctions that Innocent drew between different kinds of *collegia* (*realia* and *personalia*, *necessaria et naturalia* and *non necessaria et voluntaria* etc.), characteristic as they were of thirteenth-century academic thought, contributed to solving practical problems of law, may be doubted. None of the distinctions - which, incidentally, owed little to metaphors of persons or bodies - amounted to

anything like a definition or explanation of the essential nature of groups with legal capacity.²³ There was no reason why they should. The canonists' preoccupations were not those of later academic lawyers.

Roman law on the necessity of superior authorization was more important to academic lawyers who were concerned with secular problems than it was to those thinking of churches. The fact that respectable and unrebelling groups or individuals were often unable to produce appropriate charters did not matter: the principle that exercise of governmental authority required formal permission was still useful to rulers. Acceptable groups without charters could be made to ask for them and pay for them. The principle was maintained. For Italian commentators on Roman law the rule about delegation posed problems because it meant that Italian city-states, whether ruled by citizens or princes, had to justify their effective independence. Before the princes took over there were other problems that related more specifically to the collective character of civic government. For Roman lawyers, as for canonists, though in a rather different way, elections, majorities, and so on needed to be thought about and discussed. It is not surprising that academic lawyers like Bartolus and Baldus took up the problems of collective power and responsibility. It is, however, significant that the idea of kingdoms as collective units did not arouse argument. Everyone had long assumed that kingdoms were collective units and, except on occasions when those trained in Roman law considered the relations of other kings with the emperor, took it for granted that they were independent political units.²⁴ It was non-kingdoms that needed justification, not because they were collectivities but because the structure of authority within them was not what was traditionally accepted.

Arguments about the delegation of authority and the authority of urban governments thus led academic lawyers from what we might consider legal theory into what we call political theory, and it is sometimes said that the idea of legal personality helped them formulate something like the modern idea of the state. It is true that on occasion they used the metaphor of persons in their arguments, though their different interests made them use it rather differently from the canonists, but the extent to which it led them towards modern ideas of the state seems to me very doubtful.²⁵ The new lines of argument they propounded were stimulated more by new conditions and by the quite different kinds of language and lines of thought they found in Aristotle. It is, in any case, misleading to assimilate modern ideas of the state with legal ideas about corporations. The essence of the *legal* idea of the corporation or legal personality is that it is a group that is recognized at law,

within a legal system. The state, in the sense of an independent political unit, does not exist within a legal system in this way. It is therefore not very closely analogous to corporations that are defined as groups with capacity to act at law.²⁶

Interesting as are the discussions of collective rights and responsibilities by both canonists and Romanists, it is misleading to see either group as inventing new legal ideas out of the air. They were trying to make sense of the collectivities around them and to solve the problems that group activity posed to popes and rulers. What was new was their articulation of ideas that had hitherto been assumed and their confrontation of some of the problems that assumptions had veiled. So far as articulation involved analogies about persons or bodies, it was presumably because such analogies already had a long and respectable history. How far and in what way the ideas worked out by the intellectuals affected the way people acted in their political communities on the ground or the law to which they had to submit, is hard to say.²⁷ The structure of authority in the church and the working of its courts gave the canonists real influence there, but in secular law academic discussions about collective groups probably provided little more than phrases that could be used to lend authority to arguments based on practical interests. In so far as groups that were called *universitates* or communes (or anything else) came to enjoy a new sort of unity or independence it was surely less because words or concepts were new, or because the groups were sometimes envisaged as ‘legal persons’, than because they had negotiated or fought their way to a measure of independence. The new rules and practices of professional law hindered rather than facilitated group activity. Tierney suggests that medieval *universitates* fell into two major groups, following the Roman-law and canon-law models.²⁸ He allows for hundreds of local variations but, even so, I am not sure that trying to fit the constitutions of, for instance, towns in Italy, France, or Germany (let alone England, where, of course, Roman law had little influence) into either of the two models makes a lot of sense. Academics might try to deduce principles behind the practice but what drove the practice were political needs.

* * *

As law, at least within higher courts, came to be the preserve of lawyers, legal rules began to diverge from social norms. The difference between questions of the legal rights and responsibilities of collective groups were thus more clearly detached from philosophical questions about their place in society and their moral

rights and responsibilities. At the same time, the hardening boundaries between different jurisdictions began to produce what were more like separate legal systems, so that more consistent variations in positive law became possible. On the other hand variation was limited by the similar university training of legal elites, except in England, and by the similarity of the problems that governments and litigants confronted. I suspect that what first evoked a need to distinguish between corporate and unincorporated groups in anything like the later sense was legislation about the gift or sale of property to churches - what in England is called mortmain. The way that alienations of property to churches came to be controlled in England during the twelfth and thirteenth centuries has been well studied and described.²⁹ Similar controls developed in France over much the same period, perhaps starting a bit earlier.³⁰ Germany seems to have been a bit later on the scene but alienation to the church was restricted in Sicily by the twelfth century and in some north Italian towns by the fourteenth.³¹ None of these rules look to me as if they were derived from norms based on what historians call feudal relations. They were the product of the increasingly active, systematic, and bureaucratic government that developed at every level from the twelfth century on.

In England the way that this stimulated the definition of collectivities that could or could not act at law is very clear. So is the way that the development of government stimulated the development of professional law with its distinctive, esoteric methods of argument. By the fourteenth century lawyers were arguing whether the provisions of the 1279 statute of mortmain applied to the property of guilds as well as to churches. In a suit of 1375 it was held that a London guild or fraternity could not be adjudged to be a body (*un corps*) capable of acquiring land without a royal charter. Questions about the difference between a fraternity, a city, and a religious house, as well as about the city of London's right to make laws or create new commonalities, were raised in passing but not apparently resolved.³² The case helps to explain why some guilds and fraternities had prudently begun to secure mortmain licenses before they were explicitly required to do under a new statute in 1391. *Citees buroughs et autres villes*, however, look as if they were added to that statute almost as an afterthought.³³

The use of the word *corps* in the 1375 case suggests that common lawyers were beginning to use metaphors of the body as canonists had used metaphors of persons. A little later, around the turn of the century, three borough charters say that the towns concerned are to be separated from the body of the counties in

which they lay.³⁴ Although the three have been seen as charters of incorporation, neither the word *corpus* nor any of its derivatives is used of the towns themselves. *Corpus* here is clearly a metaphor with no implication of legal capacity. During the fifteenth century, however, metaphors of the body burgeoned into frequent talk of corporations and incorporation in the reports of arguments in the Year Books.³⁵ No doubt under advice from their lawyers, towns, guilds or fraternities, and some misteries or crafts began to get royal charters or letters patent that used words and phrases like ‘un corps corporat’ or are translatable as ‘incorporate’ or ‘perpetually corporate commonalties’.³⁶ The patents themselves could be called ‘corporations’.³⁷ ‘Corporation’ evidently meant something that was worth paying for, but that does not mean that the word had any agreed and consistent legal meaning. The Year Books suggest that judges and serjeants at law were only beginning to work out its implications.³⁸ If lawyers were not sure about them, it is unlikely that their clients were. The five powers that Blackstone would see as inseparably incident to every corporation did not at first get into the charters because there was any general consensus about what a corporation was but because prudence dictated putting in everything that one could think of as likely to avoid trouble in future.³⁹

The foundation or refoundation of twenty-two guilds or fraternities was sanctioned by royal letters patent in the six years 1446-52.⁴⁰ Eighteen were explicitly incorporated, but even more (though not always quite the same ones) were given the right to acquire land, to have a common seal, and to sue and be sued, and were at the same time granted licenses in mortmain. One may guess that the licenses were often the immediate reason for petitioning for a patent. Eighteen grants also mentioned the right to elect officers, which Blackstone did not mention, while only seven included the right to make ordinances or by-laws, which he did. This last may have seemed useful because of a statute of 1437, which had said that, because some guilds, fraternities, and other *companies incorporatz* had been making disloyal and unreasonable ordinances, all in future were to submit their ordinances to their local authorities for approval.⁴¹ Six grants from the same group mentioned an annual livery.⁴² Especially suggestive of the way that ideas about corporations developed is the way that ten of the letters patent specify the official name of the guild. Anyone trained in the Common Law knew how important it was to make sure that the defendant was correctly and

consistently named in writs. The fifteenth-century Year Books show that lawyers applied their old habits of argument with relish to the names of groups. Indeed, they carried on elaborating them long after the Year Books stopped. The question whether the hospital called the Savoy could be taken to be the same as what had been incorporated as the hospital of the Savoy was heavily discussed by all the justices in Exchequer Chamber in 1587.⁴³

Arguments about names led to arguments about the relations between a corporation and its officers. If the writ was against the officers, were they, for instance, responsible as individuals or as representatives?⁴⁴ Whatever the relation between officers and corporation might be, it could not be a consequence of corporateness as such because it varied between abbots and monasteries on the one hand and deans and chapters, mayors and burgesses, wardens and brethren on the other.⁴⁵ Five of my twenty-two mid-century foundations of guilds gave the right to sue and be sued (and sometimes other rights) to the officers rather than the guild as such, although in four of these cases it was the guild that was said to be incorporated.⁴⁶ In the same parliament that passed the 1391 statute of mortmain, the wardens of the newly rebuilt Rochester Bridge were given license to acquire land and the right to sue and be sued about it or about other bridge affairs. In 1399 they were ordered to account annually to the commonalty of inhabitants of the settlements that had for centuries been responsible for the bridge. Whether the wardens or the commonalty or both together were corporate was never cleared up, largely, I surmise, because they did not get involved in the sort of litigation that would have provoked argument about it.⁴⁷ Although in the eighteenth century Blackstone would consider churchwardens automatically corporate, in 1536 the churchwardens of St Margaret, Southwark were incorporated for the particular purpose, apparently, of acquiring land to enlarge their churchyard. In 1540 the parish was joined with another to form St Saviour's. In the new act, though the earlier one was recited, it was the parishioners, not the wardens, who were made a body corporate.⁴⁸ When a lawsuit of 1606 gave occasion for the usual fusses about the name of the corporation, this obvious anomaly seems not to have been noticed.⁴⁹

As the 1536 Southwark act suggests, it was possible to envisage groups being incorporate for limited purposes only. It has sometimes been said, on the authority of Charles Gross, that from 1468 towns were considered to be corporate if they paid a fee-farm.⁵⁰ That is not so. What was then said to have been held in the

Common Bench was that a royal grant of a fee-farm made the grantees (whether or not they were a borough) into a corporation only in so far as that meant being able to litigate about matters concerning their farm.⁵¹ What grants of incorporation gave was not a defined status or the creation of a legal entity but substantive powers, which did not yet form a single package. The right to hold, convey, and defend land at law was as yet probably the most important, but the fallacy of supposing that royal charters, whether or not they would now be called charters of incorporation, were necessary to exercise these rights is shown by all the groups that went on doing so without charters.⁵²

The particular - and tortuous - ways in which the boundary came to be drawn in England between incorporated and unincorporated groups in the following centuries seems therefore to have been determined first by the way in which kings sought to regulate gifts of land to the church and then by the ways that lawyers argued about the implications of the mortmain statutes. The character of the Common Law training clearly had a vital influence on the law of corporations that resulted. The culture of the Common Law did not encourage theorizing. Common lawyers might refer to corporations as fictions in law but this does not mean that they held a 'fiction theory' of their nature. They did not need any theory or even any comprehensive definition of corporations in order to argue nice points and precedents in the way they were trained to do.⁵³

By the seventeenth and eighteenth centuries changing political and economic circumstances were making new demands on the law. The groups which survived the restrictions on group activity that governments imposed from the twelfth century on were those which rulers could not or did not want to bully. Boroughs, the associations of respectable master craftsmen who enforced borough regulation of trade and industry, trading companies, and - until the reformation - pious fraternities were more or less safe. Humble countrymen were not, especially when, in the seventeenth and eighteenth centuries, their common rights became impediments to what landowners saw as agricultural improvement. Manorial tenants must no longer be allowed to litigate collectively, so they could not be corporations.⁵⁴ Parishioners, when they happened to be collectively in dispute about tithes, were also likely to get short shrift though their collective responsibilities were taken for granted when they were administering the Poor Law. Meanwhile, though abridgements confidently listed cases on corporations, and Blackstone neatly listed their powers and divided them into different categories, the boundary between corporations and unincorporated groups

remained hopelessly confused. However much judges and lawyers assumed the values of the rich and ruling classes, and however much they wanted to serve their interests, their arguments had to run along the tramlines that training in the Common Law had laid down. Lord chancellors consequently tied themselves into knots trying to make sense of the rules they wanted to apply.⁵⁵ New problems arose in the nineteenth century, notably with joint stock companies, religious bodies, and trade unions. At first unions must not be corporate so to keep them down. Later they must not be corporate so as to protect their funds.⁵⁶ Rochester Bridge, meanwhile, continued to remain a rather special case. During the nineteenth and twentieth centuries its affairs have been the subject of half a dozen acts of parliament as well as a Charity Commission scheme of 1888. It was apparently as a result of this last that, although it has no trustees, it came to be known as the Rochester Bridge Trust.⁵⁷

What happened in other European countries between about 1300 and the nineteenth century I am not competent even to guess, though I suspect that, even if things did not get as complicated as in England, investigation of legal practice might make them look less rational than study of legal treatises may suggest. In the nineteenth century and afterwards, the problem of reconciling theory and practice was perhaps even harder in countries where law was codified and theory mattered more. American law, meanwhile, split off from English by creating what came to be called the class action. This allowed groups to sue or be sued without being in other respects corporate. Again, it can hardly be accident that one kind of class action that American courts tended to allow in the nineteenth century was that which had a trade union as defendant, while more recent actions apparently tend to have the groups as plaintiffs.⁵⁸

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The hypothesis that I suggest emerges from this survey, incomplete as it is, is that attempting to explain the way that west European law about the rights and responsibilities of collective groups at law by looking for the origin of the modern jurist's idea of legal personality is to fly in the face of evidence about how law changes in practice. It is starting at the wrong end.

The first question that legal historians, or any historians concerned with collective activity, need to ask about the legal position of groups is: What did groups (as distinct from individuals) actually do in the society in which they

existed? Only after that is answered is there any point in tackling a second question, namely, whether there were any rules about what groups might, might not, must or must not do, distinguishing carefully whether such rules were explicit or whether they are merely deducible by the historian. It looks as if in France, Germany, Italy and England, rules about groups developed only in the later middle ages, not because academic lawyers thought out new ideas which then percolated through to practice, but because rulers imposed new controls and professional lawyers found new ways of arguing about them. In England rules were not explicitly formulated but gradually worked out as a consequence of mortmain legislation. They were shaped partly by the character of Common Law writs, pleadings, and training, and partly by wider social and political changes. The relation between these two factors is complex. In any society law may be too bound by tradition to respond immediately and directly to economic interest, social conditioning or political ideas, but I suggest that in a society with professional lawyers the response may turn out to be slower and more complex. What gets through the filter of legislation and litigation is liable to become distorted during its passage by established forms of legal practice and the habits of argument that legal training inculcates. The difference between the context in which collective responsibility works in traditional African societies and in modern western society is not just a difference between pre-industrial and industrial society.⁵⁹ It is also a difference between societies in which law is an undifferentiated part of the custom of the community and one in which it is the preserve of professional lawyers.

Whatever rules were made in medieval Europe as government and law became more professional, their effect must everywhere have been to limit the actions even of those groups which conformed to them - a point oddly missed by historians who have assumed that earlier medieval groups lacked some kind of unity which was secured by those which came to be recognized as corporate. Collective or corporate solidarity may be recognized by law but it is surely seldom, if ever, created by law - at least by professional law. However that may be, although much more work needs to be done, it looks as though it was during the later middle ages, or maybe in some areas a bit later, that the existence of rules about groups began to be a practical issue for governments and for lawyers and their clients - and therefore that rules began to be made and accepted in different jurisdictions.

A third question, which should be tackled, even by historians of legal thought, only after some attempt has been made to answer the first two, is how, if at all, the

rules were justified. To most practising lawyers and their clients justifications must often have been of marginal significance, especially when judgements were not reported fully so that their reasoning could be understood and criticized.⁶⁰ Justification may, however, have been more influential in legal systems where practising lawyers (or some of them) were trained in universities and learnt their habits of arguing from academics working in the Roman law tradition. Even in England it became politically important when attempts were made to extend the rules, as happened when common rights came under attack in seventeenth- and eighteenth-century England. Any justifications of the rules that were worked out could, of course, be used in either direction, according to the varying pressures of social, political, and economic ideology, either making the exclusion of groups which did not conform to the rules firmer or suggesting ways to get round the rules.

A fourth question is sometimes confused with the third but is logically distinct and can best be tackled after the first three have been answered. It concerns the existence and nature of any conceptualization of groups, of their relationship to individuals, and of the philosophical basis of their rights. It seems to me that, so far as academic lawyers went in for this kind of conceptualization in the middle ages, they did so from varying points of view, none of which was very close to those of later lawyers or later political theorists. It is this difference of approach that makes most of the discussion of the origin of 'fiction theories', 'entity theories', 'grant theories', and so on anachronistic and pointless. The need for such conceptualizations starts from the assumption that only individuals have rights and duties so that groups which claim them are perceived as anomalous and needing justification. That is one of the reasons why the problem of juristic persons was, as has been said, a problem of the nineteenth century.⁶¹ My remarks about it therefore rely particularly heavily on the work of others and must be taken as particularly tentative.⁶²

However tentatively one approaches the subject, it seems fairly obvious that German scholars conducted a great deal of the discussion and that this was no accident. Seen against the background of the French Revolution and the ideas of individual rights that had been propounded in the eighteenth century, ideas of Germany as a nation - that is, as a given, natural unit - that existed despite its division into a mass of states, stimulated theorizing about the nature of collective groups in politics and law. All kinds of subjects were raised in consequence, such as the degree of reality that different collective units might have, the relations of

the individual to the group, and the fulfilment that individuals would achieve by belonging to the right - the most natural – sort of group. Savigny, Gierke, and the rest did not, however, produce their ideas as pure political philosophy or polemic. What both stimulated them into propounding their theories about collectivities and made their theories important for legal practice was codification of the law, which was itself another characteristic product of the time. Codification called for principles and gave academic lawyers the chance to try to make the law both as consistent and rational and as conformable to national character as they thought it should be. Considerable efforts were made both in Germany and in France (and no doubt elsewhere) to squash real collectivities into neat categories. They were not, it seems, entirely successful. Some kinds of institution did not fit the category of the collectivity with legal personality as the theorists shaped it: the *fondation* or *Stiftung* had to form another category alongside. There could even apparently be a third category, the *Anstalt* or institution.⁶³ The neatness of categories was further reduced by the need to treat religious bodies or trade unions, for instance, as current politics required.

If in some ways nineteenth-century theories and codifications sometimes created anomalies that may even have impeded the clarification of the law about actually existing associations,⁶⁴ consideration of English law suggests that lack of theory does not necessarily produce better results.⁶⁵ That, however, is a matter for lawyers or historians of modern law, not for medievalists. Looking at the medieval law from the perspective of the late nineteenth century, it is easy enough to understand why Maitland found Gierke so exciting after the arid confusions of English law.⁶⁶ In so far as it was Gierke who stimulated his interest in collective activity and corporations, that was all to the good, but the most profound and perceptive, as well as the wittiest, of Maitland's remarks on early Cambridge or on Year Book arguments are not very Gierkean: they come from Maitland's genius for applying historical imagination to the great range of sources he studied for himself. What is more surprising than Maitland's response to the German scholarship of his time is the extent to which the history of the idea of the corporation is still written under the spell of nineteenth-century preoccupations, even by historians who are extremely vague about Herder, Hegel, Savigny, Gierke and the *Historische Rechtschule* in general. If they were less vague about it, in fact, they might find it easier to get free of the spell. That would mean trying to separate the political ideas and ideals of Savigny or Gierke from the legal ideas

and practices they thought they found in the past. Gierke was surely right in finding collective activity in the middle ages that was not carried on by fictitious entities created by royal permission and in interpreting it in more than narrowly legal terms. But the need to explain the vitality of medieval associations by their Germanic character and to justify their de facto personality against the doctrines of Roman law as interpreted in the nineteenth century was a nineteenth-century need, just as the moral or social ideals Gierke found within the medieval associations were at least in part responses to nineteenth-century needs.⁶⁷

* * *

Although this essay attempts to carry further some of the ideas about the difference between medieval and modern ideas about corporations that I have touched on elsewhere,⁶⁸ it makes no claim to be definitive. On the English side I have looked at only a fraction of the Year Book cases, while for the period after 1500 I have depended almost entirely on secondary works. On other countries I have not even attempted to study practice after 1300 and have looked at nineteenth-century controversies largely, again, through secondary books and articles. I hope nevertheless that I have produced enough evidence to suggest that study of medieval ideas about collectivities needs to start from medieval sources rather than from the nineteenth-century theories, or assumptions derived from them, that have tended to dominate it so far; and that the medieval sources that ought to be studied first of all are those of legal practice, rather than of academic theory. The academics can only be understood after one looks at what they took for granted.

When we look at the medieval sources we need, I suggest, to think rather hard about what seem to me to be three fairly common assumptions - and this word is chosen deliberately. They look to me like assumptions rather than deliberate arguments supported by evidence. They are, first, that the word *universitas* had or acquired a generally recognized legal meaning in the twelfth and thirteenth centuries; second, that becoming or being called a *universitas* in itself increased the unity and power of collective groups in the twelfth century and later; and third, that thirteenth- and fourteenth-century academics were thinking about 'the idea of the corporation' in any of its various modern senses.

¹ An earlier version of this paper was read to a seminar of the Cambridge Wellcome Unit in 1994. It develops arguments set out in S. Reynolds, *Kingdoms and communities in western Europe, 900-1300*

(Oxford, 1984), 34–6, 59–64, and ‘The history of group litigation’ [review of S. Yeazell, *From medieval group litigation to the modern class action* (New Haven/London, 1987)], *UCLA law review*, 37 (1989), 421–32.

² J. P. Canning, ‘The corporation in the political thought of the Italian jurists of the thirteenth and fourteenth centuries’, *History of political thought*, 1 (1980), 9–32, at 15; cf. F. Pollock and F. W. Maitland, *History of English law* (Cambridge, 2nd edn. 1911), i. 486.

³ D. M. Walker, *Oxford companion to law* (Oxford, 1980), 293.

⁴ *Collected papers* (Cambridge, 1911), iii. 305. The gap between English and law is even wider in American English: e.g. P. F. Drucker, *The concept of the corporation* (New York, 1964: first pub. 1946), 17 n.

⁵ A. W. Machen, ‘Corporate personality’, *Harvard law review*, 24 (1911), 253–67, 347–65; A. Nékám, *The personality conception of the legal entity* (Cambridge, Mass, 1938), 75–95; R. Feenstra, ‘L’Histoire des fondations’, *Revue d’histoire du droit*, 24 (1956), 381–448.

⁶ S. F. Moore, *Law as process* (London, 1978), 22: the definition continues, so that my extract does not do it justice, but other anthropologists seem to mean little more, if as much, as this: e.g. M. Fortes, *Kinship and the social order* (London, 1969), 302–8. M. G. Smith, *Corporation and society* (London, 1974), 44, 94–9, discusses modern western notions of corporateness with little consideration of their relation to particular legal systems. His distinction between a ‘corporate category’ and ‘corporate groups’ (p. 100) raises other problems. On anthropological usage in general: G. Cochrane, ‘Use of the concept of the corporation’, *American anthropologist*, 73 (1971), 1144–50; J. Dow, ‘On the muddled concept of corporation in anthropology’, *ibid.* 75 (1973), 904–8.

⁷ S. Reynolds, Introduction to *the history of English medieval towns* (Oxford, 1977), 113; M. Gluckman, *Politics law and ritual in tribal society* (Oxford, 1977), 118–21.

⁸ For early medieval dispute settlement: W. Davies and P. Fouracre ed. *The settlement of disputes in the early middle ages* (Cambridge, 1986). For medieval collective activity in general: Reynolds, *Kingdoms and communities* (see n. 1). For early medieval relations as more than interpersonal: J. L. Nelson, ‘Kingship and empire’, in J. H. Burns ed., *Cambridge history of medieval political thought* (Cambridge, 1988), 211–51, at 225–34; S. Reynolds, *Fiefs and vassals* (Oxford, 1994), 22–47.

⁹ On possible variations in liability under systems of customary law and the connection with a possibility of expulsion: S. F. Moore, ‘Legal liability and evolutionary interpretation’, in M. Gluckman ed., *The allocation of responsibility* (Manchester, 1972), 51–108, esp. 88–9. Outlawry or expulsion from local communities as well as from kingdoms etc seems to have been a recognized punishment in the middle ages.

¹⁰ Reynolds, *Kingdoms and communities*, 34–6.

¹¹ Machen, ‘Corporate personality’, 258–60.

¹² F. W. Maitland, *Township and borough* (Cambridge, 1898), 27.

¹³ I have argued this extensively in *Fiefs and vassals* (see n. 8). On England, M. T. Clanchy, *From memory to written record* (2nd edn. London, 1993) is fundamental.

¹⁴ Reynolds, *Kingdoms and communities* (as n. 1), 126–38, 165–83.

¹⁵ Both P. Michaud-Quantin, *Universitas: expressions du mouvement communautaire dans le moyen âge latin* (Paris, 1970), 219, and J. Le Goff ed., *La Ville médiévale* (Paris, 1980), for instance, refer to ‘le droit d’association’, while controversies about it have since the nineteenth century been implied in much writing about medieval urban history: S. Reynolds, ‘The writing of medieval urban history in England’, *Theoretische geschiedenis*, 19 (1992), 43–57 (see below, no. XV), at 53.

¹⁶ C. Petit-Dutaillis, *Les Communes françaises* (Paris, 1947), 136–40. Cf. Reynolds, *Kingdoms and communities* (see n. 1), 62–4.

¹⁷ *Diplomata regum et imperatorum: Friderici I* (Monumenta Germaniae Historica, 1975–90), no. 238; Reynolds, *Kingdoms and communities*, 63 n. and *Fiefs and Vassals* (see n. 8), index: delegation.

¹⁸ Reynolds, *Kingdoms and communities* (see n. 1), 140–1; other works cited *ibid*, at n. 103 (and P. C. Timbal in *Recueils de la société Jean Bodin*, 43 (1984), 337–48, at 338) suggest this was generally accepted.

¹⁹ Cited (with a similar statement by Baldus) by W. Ullmann, ‘The mediaeval theory of legal and illegal organization’, *Law quarterly review*, 62 (1946), 285–91, at 288. The other sources Ullmann cites here seem to me to bear out my suggestion that it was subversion, or fear of it, that determined the boundary between legality and illegality.

²⁰ Reynolds, *Kingdoms and communities* (see n. 1), 61–4; Michaud-Quantin, *Universitas* (see n. 15), 49.

²¹ W. W. Buckland, *Roman law and common law*, revised by F. H. Lawson (Cambridge, 1965), 54–9; R. Orestano, II ‘problema delle persone giuridiche’ in diritto romano, i (Turin, 1968); B. Albanese, Le persone nel diritto privato romano (Palermo, 1979), 551–76.

²² J. P. Canning, *Political Thought of Baldus de Ubaldis* (Cambridge, 1987), 190–3.

²³ M. J. Rodriguez, ‘Innocent IV and the element of fiction in juristic personalities’, *The jurist*, 22 (1962), 287–318; B. Tierney, *Foundations of the conciliar theory* (Cambridge, 1955), 101–3; M. Zurowski, ‘Penal responsibility of organized communities in the writing of the decretalists’, *Proc. sixth internal congress of medieval canon law* (Monumenta Iuris Canonici, ser. C: Subsidia, 7, 1985), 519–31. On fiction theories in general: Machen, ‘Corporate personality’, esp. 347, 351–3 (see n. 5).

²⁴ Argued in no. II, above, and *Kingdoms and communities* (see n. 1), 250–331.

²⁵ J. P. Canning, *Political thought of Baldus de Ubaldis* (see n. 22), 185–97.

²⁶ Tierney, *Foundations* (see n. 23), 132–53, and *Religion, law, and the growth of constitutional thought* (Cambridge, 1982), 26; cf. J. P. Canning, ‘Ideas of the state in thirteenth and fourteenth-century commentators on the Roman law’, *Trans. Royal Hist. Soc.*, ser 5, 33 (1983), 1–27, and ‘Law, sovereignty and corporation theory’ in J. H. Burns ed. *Cambridge history of medieval political thought* (see n. 8), 454–76. W. Ullmann, ‘Juristic obstacles to the emergence of the concept of the state’, *Annali di storia del diritto*, 12–13 (1968–9), 43–64, though Ullmann’s analogy with minors does not seem to fit the subjects of city-states or, indeed, kingdoms – as Canning points out: ‘Corporation in the political thought’ (see n. 2), 24–6. Ullmann’s criticism of medieval ‘definitions’ of the corporation as too wide (‘Juristic obstacles’, 51) seems to be made on grounds of size, which is surely irrelevant to legal capacity.

²⁷ Le Goff, *La Ville médiévale* (see n. 15), 264, sees a correspondence between theological and canonist ideas and the ‘personality’ of urban communities but does not discuss how or in which direction it worked; cf. Michaud-Quantin, *Universitas* (see n. 15), 57.

²⁸ B. Tierney, *Religion, law* (see n. 26), 26.

²⁹ E. G. Kimball, ‘Tenure in frank almoign and secular services’, *Eng. hist. review*, 43 (1928), 341–53; P. A. Brand, ‘The control of mortmain alienation in England, 1200–1300’ in J. H. Baker ed., *Legal records and the historian* (London, 1978), 29–40; S. Raban, *Mortmain legislation and the English church* (Cambridge, 1982).

³⁰ *Liber instrumentorum memorialium: cartulaire des Guillems de Montpellier*, ed. A. Germain (Montpellier, 1884–6), no. 127; V. Guébin, ‘Les Amortissements d’Alphonse de Poitiers, 1247–70’, *Revue Mabillon*, 15 (1925), 80–106, 133–44, 293–304; 16 (1926), 27–43; Les Olim, ed. A. A. Beugnot (Paris, 1839–48), i. 831, 884.

³¹ A. Erler and E. Kauffmann ed., *Handwörterbuch zur deutschen Rechtsgeschichte* (Berlin, 1964—), i. 148–50; A. Pertile, *Storia del diritto italiano*, iv (2nd edn. Turin, 1893), 386–95.

³² *Year Book*, 49 Edward III, 3–4 (Hil. 8). All the Year Books I cite are printed only in the ‘blackletter’

editions and are cited here by the year and folio or page, with the term and number of the plea in parenthesis. This seems to work for different printed editions. On the Year Books, their editions etc.: J. H. Baker, *Introduction to English legal history* (3rd edn., London, 1990), 204–8.

³³ *Statutes of the realm* (London 1816), ii. 79–80 (15 Ric. II c. 5).

³⁴ *Calendar of Charter Rolls* (London, 1903–27), v. 358, 397, 421.

³⁵ Any parallel implications in the word *persona* were apparently ignored. The petitions for incorporation of Plymouth in 1439 and Doncaster in 1467 asked that each community should be made *persone* (plural) capable in law etc.: *Rotuli parliamentorum* (London 1783), v. 18–22; *Cal. of Charter Rolls*, vi. 218–20.

³⁶ e.g. *Rotuli parliamentorum*, iii. 662–3, v. 18–22; *Cal. Charter Rolls*, vi. 8–11, 54, 61–4, 218–20; *Calendar of Patent Rolls*, 1436–41, 447, 448, and below n. 40. On the relation between misteries or crafts and fraternities: Reynolds, *Kingdoms and communities*, 70–3, 207; E. Veale, ‘The “Great Twelve”: mistei and fraternity in thirteenth-century London’, *Historical research*, 64 (1991), 237–63; C. M. Barron, ‘The parish fraternities of medieval London’, in *The church in pre-reformation society*. ed. C. M. Barron and C. Harper-Bill (Woodbridge, 1985), 13–37, at 16–17.

³⁷ G. Unwin, *The gilds and companies of London* (London, 1908), 164.

³⁸ H. Lubasz, ‘The corporate borough in the common law of the late year-book period’, *Law quarterly review*, 80 (1964), 228–43, cites a number of relevant cases. Cases can also be found through the citations in e.g. C. Viner, *General abridgement of law and equity* (Aldershot, 1742), vi. 256–321 (key to references in vol. 23).

³⁹ W. Blackstone, *Commentaries on the laws of England* (5th edn., Oxford, 1773), i. 475–6. H. Lubasz, ‘The corporate borough’, 228–43, at 228 points out that this is probably where M. Weinbaum, *The incorporation of boroughs* (Manchester 1937), got his ‘Five Points’.

⁴⁰ The list is made from the entries indexed under ‘gilds’ in *Calendar of Patent Rolls*, 1446–52 (London, 1909).

⁴¹ *Statutes of the realm* (see n. 33), ii. 298–9 (15 Henry VI c. 6).

⁴² Parliamentary disquiet about liveries seems to have been linked in 1388 with concern about mortmain, though this was not reflected in the statute of 1391: *Westminster chronicle*, ed. L. C. Hector and B. F. Harvey (Oxford, 1982), 356–7.

⁴³ E. Anderson, *Reports* (London, 1664–5), pt. 1, pp. 202–20 (pl. 237), and indexes to both parts.

⁴⁴ *Year Book* (see n. 32), 21 Edw. IV, 55–9 (Mic. 28).

⁴⁵ *Year Book*, 21 Edw. IV, 7 (Eas. 21), 12–15 (Mic. 4), 27–8 (Eas. 22), 67–70 (Mic. 53): quoted extensively by Lubasz, ‘Corporate borough’.

⁴⁶ *Cal. Patent Rolls*, 1446–52 (see n. 40), 70, 81, 164, 180–1, 565.

⁴⁷ N. Yates and J. M. Gibson ed., *Traffic and politics: the construction and management of Rochester Bridge*, AD 43–1993 (Woodbridge, 1994), 50–3, 93, 113, 126–31, 150–1, 175, 257–8, 263–5.

⁴⁸ *Statutes of the Realm* (see n. 33), iii. 686 (28 Hen. VIII, c. 31); House of Lords Record Office, 32 Hen. VIII, no. 49. For the relation of churchwardens and parishioners: *Year Book* (see n. 32), 8 Edw. IV, 6 (Trin. 5); W. Sheppard, *Of corporations, fraternities, and guilds* (London, 1657), 3.

⁴⁹ E. Coke, *Reports*, pt. 10, pp. 66–7; cf. R. Lane, *Reports* (London, 1657), 21–2.

⁵⁰ C. Gross, *The gild merchant* (Oxford, 1890), i. 104; Weinbaum, *Incorporation of boroughs* (see n. 39), 88, 107; S. Rigby, ‘Urban “oligarchy” in late medieval England’, in *Towns and townspeople in the fifteenth century*, ed. J. A. F. Thomson (Gloucester, 1988), 62–86, at 79.

⁵¹ *Year Book* (see n. 32), 7 Edw. IV, 14 (Trin. 7), 30–1 (Hil. 17) and cf. 26 (Hil. 3). So far as I can see, the

point may have been made in a hypothetical rather than a real case. For later citations and amplifications of it, e.g. Year Book, 21 Edw. IV, 59 (Mic. 28); Sheppard, *Of corporations* (see n. 48), 32, 36–7

⁵² S. C. Yeazell, *From medieval group litigation* (see n. 1), 132–59.

⁵³ Lubasz, ‘Incorporation of boroughs’ (see n. 38), like Maitland before him, suggests reasons for various decisions and doctrines which are entirely rational but seem to me more his than those of the lawyers.

⁵⁴ C. B. Macpherson, ‘Capitalism and the changing concept of property’, in E. Kamenka and R. S. Neale ed. *Feudalism capitalism and beyond* (London, 1975), 105–24; E. P. Thompson, *Customs in common* (London, 1991), 159–68.

⁵⁵ Yeazell, *From medieval group litigation* (see n. 1), 160–212.

⁵⁶ F. Hallis, *Corporate personality* (London, 1930), pp. liv, 184 n.; Nékám, *personality conception* (see n. 5), 76–95; R. Feenstra, ‘L’Histoire des fondations’ (see n. 5), at 388–92, 441–8

⁵⁷ Yates and Gibson, *Traffic and politics* (see n. 47), 221–85, and information from the Clerk and the Archivist of the Trust.

⁵⁸ Yeazell, *From medieval group litigation to the modern class action* (see n. 1), 213–66.

⁵⁹ As might be inferred from Moore, ‘Legal liability’ (see n. 9), 90 - an extremely interesting essay.

⁶⁰ J. P. Dawson, *Oracles of the law* (Ann Arbor, 1968), 65–89, 213–32, 293–5, 314–38, *et passim*.

⁶¹ Orestano, *Il ‘problema delle persone giuridiche’* (see n. 21), 19.

⁶² I found particularly helpful Hallis, *Corporate personality* (see n. 56); Nékám, *Personality Conception* (see n. 5); Feenstra, ‘L’Histoire des fondations’ (see n. 5); Orestano, *Il ‘problema delle persone giuridiche’*.

⁶³ Feenstra, ‘L’Histoire des fondations’, 388–92; Orestano, *Il ‘problema delle persone giuridiche’* 35–7.

⁶⁴ Nékám, *Personality conception* (see n. 5), 56–95.0. Gierke, *Die genossenschaftstheorie und die deutsche Rechtsprechung* (Berlin, 1887, repr. Berlin, 1963), 37–86, gives many examples of anomalies in nineteenth-century German law.

⁶⁵ Maitland, *Collected papers* (see n. 4), iii. 210–404. A lecture on *The corporation aggregate* delivered in Liverpool in 1893 was apparently printed, though it is not included in *Collected papers* or mentioned in A. L. Smith, F. W. Maitland: *two lectures and a bibliography* (Oxford, 1908), 61–2. The Institute of Advanced Legal Studies, London, has a photocopy of a copy apparently at All Souls College, Oxford.

⁶⁶ See especially the introduction to his translation as *Political theories of the middle age* (Cambridge, 1900) of the section on *Die publicistischen Lehren des Mittelalters* of Gierke’s *Das deutsche Genossenschaftsrechte*, iii (Berlin, 1881); also Pollock and Maitland, *History of English law* (see n. 2), i. 486 n. *The letters of F. W. Maitland*, ed. C. H. S. Fifoot (Selden Society, 1965), nos. 53, 87, 202, 253, 254, 259, are also suggestive.

⁶⁷ ■ Hallis, *Corporate personality* (see n. 56), 139–65. On the difference between legal and moral ideas about collective responsibility in modern terms: P. A. French, *Collective and corporate responsibility* (New York, 1984), 32–7.

⁶⁸ Seen. 1.

Urban Ideas and Solidarities

VII

English Towns of the eleventh-century in a European Context

Taken as a whole, the papers delivered to this conference suggest that the eleventh century was a period of considerable urban growth in many, if not all, parts of Europe. By the twelfth century, when evidence is better, there seem also, as I have argued elsewhere, to have been considerable similarities in the character and organization of all these urban communities¹. If there is any truth in these two generalizations they pose a problem. Without wishing to suggest that towns grew to the same extent and in the same way everywhere or that there were not important regional and local differences in their economies and social traditions, one nevertheless needs to ask: how many of the differences between the accounts we have heard of eleventh-century towns derive, not from real differences in eleventh-century towns, but from differences in the sources available and in national traditions of historiography? The sources for English towns, for instance, are clearly the product of a particular political situation, namely the existence of a very strong central government. This undoubtedly affected the constitutional development of all towns, and ensured that national politics had an important impact on the prosperity of individual towns, particularly in the short term. In spite of that, English towns may not have been as different from towns elsewhere in Europe as differences of vocabulary and historiographical tradition suggest.

Before looking at the evidence I need to define what I mean by a town. In doing so I shall not take refuge in a *Kriterienbündel*. Given the scarcity of evidence and the different types of evidence that we need to use, we certainly need to use a bundle of criteria, in the sense of a check-list of different kinds of evidence, in deciding which settlements of the time were towns, but no such bundle can be an adequate substitute for a definition. A bundle of criteria presupposes some kind of definition, however vague and assumed. How else would there be a bundle and how would we decide what to put in it? Presumably we have some idea of the character of the bundle — some mental piece of string which we put around

certain criteria or characteristics, excluding others. In other words we could not make a bundle without already having some kind of idea of what is 'urban'. People who talk about bundles nevertheless seem to use the adjective 'urban' — and even the noun 'town' (or *Stadt* or *ville*) in an intuitive way that implies that they have some idea of what these words mean. That being so, it is surely better to think about the question so as to turn a vague idea into a definition that can be argued about and improved. My definition, which I am willing to change, if anyone will argue about it and convince me that it is defective, has two parts. The first part is functional: a town is a permanent and concentrated human settlement in which a significant proportion of the population is engaged in non-agricultural occupations — characteristically in a variety of trades and industries and probably in some administrative, political, and professional work too. A town therefore normally lives, at least partly, off food produced by people who live outside it. Larger towns may import some of their food from far away but many live primarily off what is produced in the surrounding countryside to which they provide goods and services in return. A town's functions as a market centre tend to make it a convenient centre for holding courts and for religious and administrative purposes, though which of these functions came first, or predominated at any moment thereafter, will vary from town to town and from time to time. The second part of my definition is social. The inhabitants of towns normally regard themselves, and are regarded by the inhabitants of predominantly rural settlements, as a different sort of people. However deeply divided they may be among themselves they tend to be united at least in regarding themselves as different from the rustic simpletons outside.

It is a loose definition, but that need not be a defect. The category covered by the word 'town' in ordinary everyday use (like the word *Stadt*) is essentially one with an unclear edge, not because our thoughts about it are confused but because it is that kind of category². Many places may be hard to assign to one side or the other of the urban/rural boundary. There are modern places that could be difficult to decide about: suburbs, for instance, or places that have quite a few shops, but shops which nearly all sell food or minor domestic goods, with none selling, for instance, books or any range of clothes. The fact that it is sometimes hard to say whether an individual place is a town does not make me doubt that the category is a useful one. It is useful for comparisons between societies precisely because it is not encumbered with characteristics which apply to only one society. The traditional definitions of medieval towns that focus on peculiarly medieval features, like charters and autonomy or even walls, are unhelpful both for

distinguishing primary from secondary features and for comparisons with other societies. Without comparisons thought about any one society is hampered. A more general definition, like this one, which attempts to find what is essential about towns in different societies, enables us to ask whether a particular society in any period or in any part of the world had towns. The answer will then tell us something significant about that society. As a consequence of their essential characteristics towns in different societies may acquire extra features - separate administrations and law courts (with or without charters), walls, market squares, cinemas, railway stations or airports - but all these are consequences of being a town, not criteria for determining what is a town. They tell us more about the particular society in which the town lives than about the essence of urbanness.

The two most important sources of information about eleventh-century English towns are surviving coins and Domesday Book, though they are supplemented by other written evidence (some of it in the vernacular), notably laws and charters, and by recent archaeological investigations³. Both the coinage and Domesday reflect the power of the monarchy and this paper will concentrate on them, not on the archaeology, because they emphasize the problem which has been posed at the outset.

From 973 the making of coins in the kingdom of England was centrally controlled in such a way that we can now tell where and when (to within a few years) most surviving coins were made. At the beginning of the eleventh century there seem to have been about sixty places with mints in the kingdom, nearly all south of the River Trent. Many may have had only one moneyer working at a time, but most nevertheless produced coins regularly enough to suggest that they were places of trade⁴. According to laws issued by kings in the tenth century all minting and all trade were supposed to take place only in places known in Old English as *byrigan* or *portas* — *byrigan* (sing, *byrig*) being the commonest Old English form of the word normally rendered in Domesday Book as *burgi*⁵. Every *byrig* was supposed to have at least one moneyer⁶. Any place that produced coins regularly was probably a place with some trade, and to judge by the wide distribution of coins from many mints, some of them had quite wide trading areas. I deduce therefore that in 1000 there may have been about fifty or sixty places which could be counted as towns in functional terms even if most of them were very small. To judge by the evidence of the coins the biggest at that time were London, Winchester, York, and Lincoln. These four were the largest producers of coins at the beginning of the eleventh century. Throughout the century London was

generally responsible for about a quarter of the production of the whole kingdom⁷.

The second important source of information which I mentioned was Domesday Book. The enquiry which resulted in the two volumes which are together known as Domesday Book was held in 1086 and the final text is generally considered to have been completed very soon afterwards⁸. It also contains much information about conditions before 1066. Most historians who have looked in Domesday for information about towns complain that the town entries are confused and unsatisfactory and that little sense can be made of them. I think that is wrong. Much less sense has indeed been made of the entries about towns than of those about rural manors, but that is because much less critical work has been done on them. Scholars have too often looked at the town entries simply for information about trade and industry and for statistics on urban population and then, finding very little of the kind, have been too discouraged to do more. It would obviously be very nice to have this kind of information but there was no reason why it should be there. When William the Conqueror ordered the enquiry he was not thinking of what historians would want to know. The purpose of the enquiry, so far as it concerned towns, was to record the property and rights of the king and of others after a period of war, confusion, and confiscations. In towns the king's dues chiefly took the form of rents and other payments in money. Although the questions which the royal commissioners asked about towns are not recorded it is possible to deduce something about them from what is recorded. They seem to have wanted to know what dues were paid in 1066 and by whom. If anything was paid then and is not being paid now, why not? Who ought to pay dues now and does not do so⁹? The resulting statistical information is certainly hard to use but it can tell us something if we bear its purpose in mind. In any case statistics are not everything and there is much in Domesday Book which casts light on other aspects of urban society and government. Even the obscure and inconsistent terminology which has baffled historians in the past can be positively illuminating if, instead of trying to make it fit the categories and distinctions which later constitutional and legal historians thought significant, one sees it as a reflection of the preoccupations and problems of the government and its subjects in 1086. Domesday, as I hope to show, tells us quite a lot about towns and the concerns of townspeople, though, of course, I do not for a moment claim that I understand most or even much of what it says. And, also, of course, like everyone else, I am frustrated by its omissions. London and Winchester, the two most important towns of the kingdom, are both omitted and there is virtually nothing on Bristol.

So far as statistics go, Domesday Book refers to over a hundred places as *burgi* and thirteen as *civitates*, though some of these are alternatively called *burgi* as well. The two words are not consistently distinguished, but smaller and less important places are never called *civitates*. It seems clear that *burgus* is used where *byrig* (or one of its many variant forms) would have been used in Old English while *civitas* was the equivalent of the Old English *ceaster*. Domesday says enough about all the *civitates* and around forty of the other *burgi* to suggest that these at least constituted the kind of places that deserve to be considered urban from a functional point of view. Although Domesday itself says little about trade and refers to either mints or markets only when for some reason their dues needed to be separately recorded¹⁰, the coin evidence shows that all these fifty or so places had mints and it seems reasonable to deduce that they all had markets, whether of wide or merely local attraction. All seem to have been administrative and religious centres for larger or smaller areas of country round about. Presumably this stimulated their trade: people coming to courts or churches could have done their buying and selling at the same time. Some people in these places cultivated the land, but it is clear that many did not. Many seem to have held only houses and nearly all paid money rents. There were too many houses and too much income from them for their occupiers to have been peasants with very small holdings.

Population figures are, of course, a matter of huge guesswork. The Domesday figures for 1086 are incomplete and they were, in any case, never intended to give the total numbers of houses or even householders in towns, let alone their total populations, so that, at their best they need a great deal of interpretation. A fair number of the fifty or so fuller entries, however, give some information about the numbers of houses or burgesses who paid dues, or used to pay dues, or ought to pay dues, to the king. The entries are, of course, even more difficult to use retrospectively for the earlier part of the eleventh century. The period between 1000 and 1086 was at once a time of great urban growth all over Europe and a time of fierce though intermittent turmoil in England. Nevertheless, just for the sake of giving some idea of scale at the beginning of the century, it may not be too rash to suggest that most of the places that could be considered urban according to the definition given above had fewer than a thousand inhabitants in 1000 and that perhaps only London, Winchester, and York had over four thousand. All are likely to have been bigger in 1066 and some had grown further by 1086. But these guesses are offered only so as to give some kind of scale. They should not be taken very seriously.

In 1000, then, there may have been at least about fifty places that could be considered towns from a functional point of view, although most of them had very small populations. They probably also fulfilled the second, and social, part of the initial definition, since there is enough evidence to suggest that their inhabitants thought of themselves, and were thought of by outsiders, as a particular sort of people — townspeople. As well as the Old English word *byrig* (*burg*, *burh* etc), there were other words, like *ceaster*, *port* or *wic* which were used, often interchangeably, of the places themselves in such a way as to suggest that people thought of them as different from the normal agricultural village¹¹. The people who lived in these places were, moreover, also described by distinctive words which suggest that they had for a long time been recognizably different from people living in other settlements. By 1000 words such as *burhwara*, *burgliod*, *portmenn*, *ceastregewara* or, in Latin, *urbani* had been used for a hundred years or more for the inhabitants of at least some towns, which suggests that they enjoyed the social distinctiveness that I have taken as one of the defining qualities of a true town. Although the Latin *burgensis* does not appear in surviving sources before 1086 that tells us more about the nature of the sources than about the development of towns and urban consciousness¹².

There was much about life in eleventh-century towns which tended to produce solidarity against the outside world. Since the tenth century English towns had been the site of assemblies which dealt, among other things, with commercial transactions. One text of the early eleventh century refers to town and country law (*ge burbriht ge landriht*) in a way which suggests that they differed in some way from each other. This suggests that distinctive rules and practices may have developed in towns, presumably in order to deal with the distinctive conditions of urban life¹³. Before 1066, moreover, the more important English towns formed separate units of government under the sheriffs of their respective counties¹⁴. Solidarity was therefore promoted further in them, as in all units of medieval government, by the processes of collective judgement and collective responsibility which were essential to the working of government at every level¹⁵. When it suited them, medieval kings often imposed collective punishments and made communities collectively responsible for payments. By the eleventh century collective responsibility in English towns could involve the holding of communal funds. The answers to a royal enquiry, possibly made in the 980s, show that some of the tolls paid in London by traders from across the

Channel went to the citizens rather than to the king¹⁶. Although Domesday does not always distinguish clearly between what was owed by all the burgesses of a town as individuals and what was owed collectively, it makes it clear that by 1066 other towns were collectively responsible both for at least some of the military service they owed to the king and for some of the annual payments which burgesses owed him¹⁷. It also shows that before 1066 some towns had developed enough solidarity and enough self-confidence to bargain with the king for collective privileges of various kinds. Exeter, the capital of the county of Devon, had to pay tax (*geldabat*) only when the three greatest cities (London, Winchester, and York) paid it, while three local market towns in Devon had to do only the same amount of military service as Exeter itself did¹⁸. The people of Dover had made an arrangement with the king to provide ferries for his messengers and a fixed quota of naval service in return for being allowed to keep most of the profits of justice from their town¹⁹. Similar arrangements had been made by other ports nearby. None of these bargains was apparently recorded in a formal charter but that is because kings and lords seldom granted charters to towns as yet — except in Italy, and very rarely even there. Domesday Book shows that before 1066 a fair number of towns were united and confident enough to negotiate with the king and were rich and powerful enough for him to want to negotiate with them.

Information about how they organized themselves is scarce. In Dover and Canterbury there were town guilds that may well have provided the framework through which the burgesses could manage their affairs²⁰. Many other towns must have had guilds, but they need not always have used them as the channel for negotiation. The particular forum did not matter. Burgesses were accustomed to collective judgement and administration in their town assemblies and, like medieval people in other countries, were nearly always remarkably vague about the particular collective group in which they were acting and its membership²¹. However townspeople conducted their affairs they are pretty sure to have been led and represented by the richest and most respected of their number — the sort of men who were also likely to take the lead in town judgements, like the *judices* or lawmen who are mentioned in the Domesday entries for Cambridge, Chester, York, Lincoln, and Stamford²². As yet the president of a town assembly would normally be the king's sheriff or his deputy (who might be called a portreeve) but the kind of burgesses who could negotiate terms for taxation and service with a king would presumably be able to act independently of his officials on occasion,

if they wanted.

Altogether then, it seems fair to conclude that, although most English towns in 1066 were miniature towns, they were true towns. Although they lacked charters and formal liberties and although we do not know much about their internal organization, that does not mean that it would make sense to call them proto-towns or *vorkommunale Städte* or to deny them titles like *Bürgerstädte* or *Rechtsstädte*. These terms were invented by modern legal historians and have implications which obscure the realities of medieval society and government. The kind of places which have been described so far deserve to be considered true towns since they fulfilled urban functions and their populations were apparently distinguishable from people outside. In so far as they formed communities (*Stadtgemeinden*) they did so first and foremost because townsmen — *burgliod ceasterwara* — lived close together and had at least some interests in common, whether or not they bound themselves together by oath. They may well have taken mutual and collective oaths, either in emergencies or regularly, for medieval people seem to have taken oaths constantly, for all kinds of reasons, but oaths would have strengthened rather than created the bonds of community. A much more important force for solidarity was customary law. All local communities tended to develop their own laws and customs, which, even without charters, would with time acquire a certain validity which the community could try to maintain against its ruler. In that sense they were *Rechtsstädte*. Charters and formally granted liberties were not necessary for collective action, only for greater freedom of collective action. Charters granted towns no more 'juridical personality' than they had before. The idea of juridical personality has been imported into the middle ages by later legal historians: there was no room or need for any concept of 'Juridical personality' in the law of the time²³. In so far as customs and rights were insecurely held — with or without charters — it was because oppressive rulers might choose to override custom and right, not because of any conceptualization, or lack of conceptualization, of juridical personality or corporate groups.

There is no obvious reason either to look for influences from abroad in the development of urban solidarity and the moves towards urban autonomy that one can detect in pre-Conquest England or to suppose that they were peculiar to England. They could perfectly well have been the result of a combination of the working of traditional law and government with the kind of economic development that was stimulating the growth of towns all over western Europe. If we had more Domesday Books we might know more about similar developments elsewhere before kings found it necessary or useful to make formal concessions

by charter.

The invitation to submit this paper included a suggestion that the subject should be considered, at least in part, from a Norman point of view. This presumably meant that it should include some consideration of the effect of the Conquest on English towns and their development thereafter. It seems reasonable also to consider the 'Norman point of view' in a literal sense, that is, to ask how English towns may have appeared to William and his followers. Probably the most obvious points that they would have noticed were that English towns were both enticingly rich and militarily dangerous. Some had quite solid defences. In 1066 William circled London very cautiously, ravaging as he went, and only came into the city after receiving its submission. The building of castles in many of the larger towns became necessary not only in order to hold down the countryside but also to hold down the towns themselves.

How far and in what ways English towns seemed to the Normans different from towns at home in Normandy needs careful thought. One difference which would have struck them was that relatively few English towns had cathedrals or even monasteries of the kind to which they were accustomed. On the other hand many contained a surprising number of smaller churches and some of the few cathedrals that did exist were in places that were barely towns at all²⁴. Whether, once the differences of vocabulary in a foreign language were overcome, the structure of society and government and law in the towns would have seemed odd, must be doubted. Underneath the vocabulary individual items of custom varied but the general structure was much the same. A lot used to be made of the introduction of the laws or customs of the Norman town of Breteuil to various towns in the west of England, the Welsh marches, and beyond, but this should not be interpreted to mean that all the customs of Breteuil were different from those of English towns or involved greater liberties. The chief point about them in contemporary eyes seems to have been that they provided for the compounding of various penalties in return for a fixed sum from each burgess²⁵. There is no reason to suppose that the legal procedures and general customs of Breteuil were much more different from those of pre-Conquest Hereford than were those of many English towns: there was always local variation in customary law just as there was in rights and dues. Before the Norman Conquest the citizens of Hereford might not have thought there was anything very good about the customs of Breteuil. After it, when only the French citizens enjoyed the customs of Breteuil, the English citizens must have envied them. Under an occupying army any custom which limited payments had

become desirable.

The best thing about English towns from the point of view of William and his followers was that they were numerous, rich, and accustomed to paying regular services and sums of money to the king. In the conditions of conquest, moreover, especially after rebellions had been crushed and castles had been built to bully the towns into submission, burgesses could be made to pay even more. Domesday shows that they paid a great deal: many payments went up despite the demolition of many houses, whether as a result of fire and fighting or to make way for castles and cathedrals, and despite the exemption of French immigrants in some towns (though not all) from the obligations imposed on the English²⁶. The twenty years after the Conquest were disastrous for many individual townspeople whose houses were burnt or pulled down. On the other hand the building of great churches and castles must have stimulated markets and created new jobs—of a sort. Some towns, notably the Channel ports, seem to have gained new business. At Bury St Edmunds (Suffolk), according to Domesday, 342 houses had been built on land which had been under the plough in 1066²⁷. The settlement at the gates of St Edmund's Abbey must have already been more or less urban even before the Conquest but it had grown dramatically since. Among others living on the newly built-up land in 1086 were 30 priests, deacons, and clerks, and 28 nuns and poor people, who daily uttered prayers for the king and all Christian people; thirteen reeves (*prepositi*), with 5 bordars under them, who seem to have been concerned in the management of the abbey's estates; 34 knights, both French and English, with 22 bordars under them; and 75 bakers, ale-brewers, tailors, washerwomen, shoemakers, robe-makers, cooks, porters, and agents (*dispensatores*), who daily waited on the saint, the abbot, and the monks²⁸. Given that this was a great age of urban growth everywhere and given what we know about other countries and about English towns before the Conquest, there is no reason to attribute either this particular example of urban growth, or most of the other signs of urban vitality after 1066, to the Normans or their influence. It would also be naive to suppose that most of the increases in urban values since 1066 which were recorded in 1086 were the result of increased wealth. That is not what one expects from a military occupation. Increases in values are more likely to signify increases in the king's or lord's profits than in the prosperity of townspeople.

In the short term the Norman Conquest probably damaged English towns more than it stimulated their growth. Apart from physical destruction, moreover, English towns became more divided and unhappy places for at least a generation after

1066 than they had been before. By the end of the century things were settling down again. It was probably in towns that the difference between French and English descent first became obliterated. Intermarriage started early and though some towns kept distinct areas of separate, French custom (‘French boroughs’) into the twelfth century and beyond, these soon became merely areas in which minor variations in the rules of property had become fossilized²⁹. Custom had become established again, as it always tended to do in the conditions of medieval government, even if it was established in a way that involved higher dues than might have been owed if there had not been a conquest. In the long run the Norman Conquest in itself may not have made very much difference to the way in which English towns developed. Everything that happened in England after the Norman Conquest was not caused by it—any more than everything in Germany that happened after the *Investiturstreit* was caused by that. *Post hoc* need not mean *propter hoc*, and it is unlikely to have done so in this case.

The granting of charters to towns and their achievement of a more formal measure of autonomy, for instance, cannot have been a result of the Norman Conquest. It is difficult to put an exact date on the first charter, partly because none that might qualify for that title is dated, but they only became common, and began to confer important new benefits, during the twelfth century³⁰. The chronology and content of English charters by and large parallel those of other parts of northern Europe which were not conquered by the Normans. There are differences, but not only between England on the one hand and everywhere else on the other. Towns in some parts of Europe wanted liberties because their rulers were too weak to protect them and in others they wanted them because their rulers were too oppressive. England came into the second group. The content of English town charters reflects the taxation and bureaucracy that developed even further because of the wars in which Norman and Angevin kings were constantly embroiled for the next century and a half. As the evidence already cited shows, however, centralized control and taxation of towns in England started before the Norman Conquest and so did negotiations for privileges. The evidence from eleventh-century England suggests that it is wrong to assume that the great and important developments of the twelfth century were the result of a ‘communal movement’ which started only at that time. Signs of urban solidarity in the eleventh century can, of course, be seen elsewhere — most obviously in Italy — but Domesday Book makes them particularly clear in England. The granting of charters started partly because the forces on both sides became stronger but partly

too because, in a trend which can be found all over Europe, the making and preservation of written documents was becoming more widespread. Charters, in any case, were always less important than traditional town historians suppose: they could restrict liberties as well as increase them and even the most formal charters could be withdrawn by powerful kings. Many (though not all) English towns gained a significant new degree of autonomy in the twelfth century and later but they were never secure. Even London, which had much the greatest liberties and much the most influence, had its charters revoked over and over again in the thirteenth century³¹.

None of this is intended to suggest that English towns had developed farther either by the beginning or the end of the eleventh century than towns elsewhere. Nor would it be right to conclude that they had developed less far — except than the great cities of Italy, though even there urban government may have had more in common with urban government in the north than is often allowed³². The usual dichotomy between England and 'the continent' is misleading for the middle ages. There was as much variation between different parts of continental Europe as there was between England and anywhere else. As government developed local variations between individual towns tended to become overlaid by variations between kingdoms or other units of jurisdiction, while at the same time the increasing volume and pace of trade and contacts of every kind created new similarities. All this, however, takes us far beyond the eleventh century.

One subject which has not been discussed in this paper, but to which some allusion should perhaps be made, is typology. It seems, however, to pose problems which may make any simple classification deceptive. The categories into which we divide towns are, like all social categories, constructs which we make for ourselves, so that the particular ones we choose will depend on our own purposes and interests at the time. Categories which distinguish the circumstances of foundation cut across those which distinguish economies, size of population, types of constitution, and so on. In a period of urban growth, moreover, the categories and the individual towns are likely to have changed too much for any single classification to be useful. It seemed, however, that it might be useful to test these rather negative hypotheses. The appendix to this paper therefore embodies the result of a rough and ready attempt to classify some of the larger English towns according to their recorded populations in 1086, using Domesday Book boldly and without worrying as much as one should about its omissions and obscurities. The table also indicates which seem to have been Roman cities, cathedral cities,

and centres of county administration; which were administered apart from the surrounding countryside; which were significantly stimulated by Danish settlement; which were fortified by 1066 and which seem to have had planned layouts; which had been early trading-places (many incorporating *wic* in their names); and which had castles by 1086. It is hard to avoid the conclusion that any single, general-purpose typology is unlikely to cast much light on the character of eleventh-century English towns. Perhaps that is not to be regretted. Some of our ways of thinking about eleventh-century towns still suffer from inappropriate categories created in the nineteenth century. Do not let us free ourselves from old and inappropriate categories only to create new ones of our own.

Towns	Rom.	Cath.	Cty HQ	Sep.	Dan.	Fortif.	Plan	Port	Castle
Probably over 5,000 inhabitants									
London	*	*	*	(*)		*	?	**	*
Winchester	*	*	*	(*)		*	*		*
Possibly over 4,000 inhabitants									
Bury	*		*	*		*	?	*	*
Colchester								**	
Dunwich									
Lincoln	*	*	*	*	*	*		(*)*	*
Norwich			*	*	*	?		(*)*	*
Stamford				*	*	*	?		*
Thetford		*		*	*	*			*
York	*	*	*	*	*	*		**	*
Possibly over 2,000 inhabitants									
Canterbury	*	*	*	*		*		*	*
Exeter	*	*	*	*		*	?	*	*
Huntingdon			*	*		*			*
Leicester	*		*	*	*	*			*
Lewes			(*)	*		*			*
Oxford			*	*	*	*	?		*
Sandwich								**	
Wallingford			*	*		*	*		*
Possibly over 1,000 inhabitants									
Bath	*		?	?		*	?	*	*
Cambridge	*		*	*		*		*	*
Chester	*	*	*	*	*	*	?	*	*
Chichester	*	*	(*)	*		*	?	*	
Hythe								*	
Ipswich				*		*		**	
Maldon				?		*			
Northampton			*	*	*	*			*
Nottingham			*	*	*	*			*
Shaftesbury				*		*			*
Shrewsbury			*	*		*			*
Southampton				*		?		**	
Warwick			*	*		*			*

Some Larger Towns in 1086 and Some of Their Features

Both the selection of towns and their probable populations are ultimately based on Domesday Book but the selection and classification are both arbitrary. Estimates of population based on multiplications of DB figures of houses etc and/or people are very shaky while many entries do not purport to give total figures at all. London and Winchester are both omitted from DB. For estimates of the population of Winchester, see M. Biddle ed., *Winchester in the Early Middle Ages*, Oxford 1976, 440-1, 481-8. Other places may have had populations as big as those included here but are omitted because DB gives inadequate information for even a guess, e.g. Dover and most towns in Circuit 5 (Bristol, Gloucester, Hereford, Stafford, Worcester).

The columns:

- Rom.: known or believed to have been on the site of a Roman town.
- Cath.: the see of a bishop in 1086. Bath became a bishop's see in 1090. In 1094-6 the East Anglian see was transferred from Thetford to Norwich. Lincoln had only become a bishop's see in 1072 and Exeter in 1050.
- Cty: the known or probable centre of county government. Chichester and Lewes are
- HQ: both in Sussex, which had no sheriff in 1086, as the county was effectively split into its rapes: each of these two formed the head of its respective rape.
- Sep.: a town whose position in DB suggests that it formed a separate unit of administration under the sheriff of its county. London and Winchester are not in Domesday Book and London's county of Middlesex was so small that it may not have been separately managed.
- Dan.: towns which seem to have been either established or much stimulated by Danish settlement. This is obviously a loose and uncertain category: other towns should perhaps be included in it.
- Fortif.: Towns known or believed to have had earth or stone fortifications by 1066 (SCHOFIELD/LEACH, *Urban Archaeology in Britain*, 93; for Norwich cf. A. CARTER, 'Anglo-Saxon Origins of Norwich', *Anglo-Saxon England*, 7 (1978), pp. 175-204, at p. 201).
- Plan: Towns where it has been suggested that streets were laid out on a regular pattern by royal command in the late ninth or early tenth century (M. BIDDLE/D. HILL, 'Late Saxon Planned Towns', *Antiquaries Journal*, vol. li (1971), pp. 7085; Biddle, 'Towns' in D.M. WILSON ed., *The Archaeology of Anglo-Saxon England*, London 1976, pp. 99-150). Most of the evidence is topographical. A question mark indicates that I think it is less strong.
- Port: a single asterisk indicates a town which probably functioned as a seaport in the eleventh century. Two asterisks indicate an early sea-port whose name incorporated the element *wic*. Norwich and Dunwich both have *wic* names but Norwich is not referred to until the tenth century and the *wic* form of Dunwich

not until 1086. A suburb of Lincoln (Wigford) may represent a *wic* name.
Castle: towns in which castles were probably built before 1086 (H.M.COLVIN ed., *The History of the King's Works*, vol. i, London 1963, p. 22; D.K. RENN, *Norman Castles in Britain*, London 1968, p. 15).

¹ S. Reynolds, *Kingdoms and Communities in Western Europe, 900-1300* (=Kingdoms and Communities), Oxford 1984, pp. 168-198.

² E. LEACH, 'Social Anthropology: a Natural Science of Society?', *Proceedings of the British Academy*, lxii (1976), pp. 157-180.

³ J. SCHOFIELD/R. LEECH ed., *Urban Archaeology in Britain* (Council of British Archaeology Research Report 61, 1987); *Medieval Archaeology* (1957ff.) contains annual notices of excavations.

⁴ D.M. HILL, *Atlas of Anglo-Saxon England*, Oxford 1981, pp. 131f. shows 53 mints producing 4 or more of Aethelred's 9 issues (including two very short-lived issues) and 22 producing fewer; cf. D.M. METCALF, 'The Ranking of Boroughs: Numismatic Evidence for the Reign of Aethelred II', in: D.M. HILL ed., *Ethelred the Unready* (British Archaeological Reports, British Series, 59), Oxford 1978, pp. 159-212.

⁵ A. DI P. HEALEY/R. L. VENEZKY, *Microfiche Concordance to Old English* (=Microfiche Concordance), Toronto 1980.

⁶ F. LIEBERMANN ed., *Die Gesetze Der Angelsachsen* (=Gesetze), Halle 1916, vol. i., pp. 138f., 156-159, 210f. (I Edward 1.1; II Athelstan 12, 13.1, 14, 14.2; IV Edgar 6); now also in S. REYNOLDS/W. DE BOER/G. MAC NIOCAILL ed., *Elenchus Fontium Historiae Urbanae* (=Elenchus), vol. ii, pt. 2, Leiden 1988, pp. 22, 24-27.

⁷ Above, n. 4.

⁸ Important new work has been produced and is still being produced in connection with the anniversary celebrations of 1986: see e.g. P.H. SAWYER ed., *Domesday Book: A Reassessment* (=Domesday Book: A Reassessment), London 1985; J.C. HOLT ed., *Domesday Studies* (=Domesday Studies), Woodbridge 1987. Alecto Editions has produced a complete facsimile and is producing commentaries on the various counties.

⁹ S. REYNOLDS, 'Towns in Domesday Book', in: *Domesday Studies*, pp. 295-309.

¹⁰ These references are listed in H.C. DARBY, *Domesday England* (=Domesday England), Cambridge 1977, p. 371.

¹¹ REYNOLDS, 'Towns in Domesday Book', in: *Domesday Studies*, pp. 297-300.

¹² e.g. W. DE G. BIRCH ed., *Cartularium Saxonicum*, London 1885-93, nos. 248, 249, 515, and for other references see A. DI P. HEALEY/R. L. VENEZKY, *Microfiche Concordance*, e.g. *sub burgawara*, *burgliod*, *byrhwara*, *burhwita*, *ceastregewara*, *portmenn*: this point is discussed briefly, with some reference to discussions elsewhere, in: *Kingdoms and Communities*, pp. 161, 163.

¹³ LIEBERMANN, *Gesetze*, vol. i., pp. 104f., 136, 210ff.; 477 (also in: *Elenchus*, Pp. 24-28).

¹⁴ S. REYNOLDS, *Introduction to the History of English Medieval Towns* (=English Medieval Towns), Oxford 1977, pp. 92f.; REYNOLDS, 'Towns in Domesday Book', in: *Domesday Studies*, pp. 300f.

¹⁵ REYNOLDS, *Kingdoms and Communities*, especially pp. 158-168.

¹⁶ LIEBERMANN, *Gesetze*, vol. i., p. 234 (IV Ethelred, 4.2, and, though less clearly, 3.2). For the date: P. WORMALD, 'Aethelred the Lawmaker', in: HILL, *Ethelred the Unready*, Pp. 47-80.

¹⁷ e.g. COLCHESTER: *Domesday Book* (=Domesday Book), London, Record Commission, 1783-1816, vol. ii., p. 107r-v.

¹⁸ *Domesday Book*, vol. i., 100, 108v: most entries from DB cited hereafter are also in *Elenchus*, vol. ii (2).

- ¹⁹ Domesday Book, vol. i., 1, 3, 4v, 10v.
- ²⁰ "Ibid. pp. 1,3.
- ²¹ REYNOLDS, *Kingdoms and Communities*, pp. 167f, 184-188.
- ²² Domesday Book, vol. i., pp. 189, 262v, 298, 336, 336v.
- ²³ This is argued in Reynolds, *Kingdoms and Communities*, 59-64 and *The History of the idea of incorporation*, above, VI.
- ²⁴ J. CAMPBELL, 'The Church in Anglo-Saxon Towns', *Studies in Church History*, xvi (1979), pp. 119-136; J. BLAIR, 'Secular Minster Churches in Domesday Book', in: SAWYER, *Domesday Book: a Reassessment*, pp. 104-142.
- ²⁵ J. TAIT, *The Medieval English Borough*, Manchester 1936, pp. 350f.; Domesday Book, vol. i., pp. 179, 269v; this later became converted to an ordinary fixed rent: Elenchus, vol. ii (2), p. 165. M. DE W. HEMMEON, *Burgage Tenure in Medieval England*, Cambridge, Mass. 1914, pp. 166-172 asserts that the payment was a 'rent', apparently from the start, but that is not clear from DB. Other customs found both at Breteuil and various English, Welsh, or Irish towns need not have been derived from Breteuil: e.g. HEMMEON, pp. 12 n. 4, 19 N. 6, 57, 97, 119 n. 7, 123, 136ff.
- ²⁶ DARBY, *Domesday England*, pp. 295-298, 313ff.; REYNOLDS, 'Towns in Domesday Book', in: *Domesday Studies*, note 41.
- ²⁷ DARBY, *Domesday England*, pp. 299f., 318f.
- ²⁸ Domesday Book, vol. ii., p. 372.
- ²⁹ C. CLARK, 'Women's Names in Post-Conquest England', *Speculum*, vol. liii (1978), pp. 223-51; F. POLLOCK/F.W. MAITLAND, *The History of English Law before the Time of Edward 1*, Cambridge ²1898, vol. i., p. 367; *Records of the Borough of Nottingham*, ed. W.H. STEVENSON, vol. i, London/Nottingham 1882, pp. 124ff. (dower), 172ff., 186ff. (rules of inheritance).
- ³⁰ Whether William I's proclamation to London soon after 1066 should count as a charter is doubtful: Elenchus, vol. ii (2), p. 34. For later charters: *ibid.* pp. 52 and after.
- ³¹ REYNOLDS, *English Medieval Towns*, pp. 98-114.
- ³² I have argued this more fully in: *Kingdoms and Communities*, chapter 6.

VIII

*Towns in Domesday Book*¹

THE TITLE OF this paper is 'Towns in Domesday Book', not 'Boroughs in Domesday Book', and I shall start by arguing that the distinction is a significant one. It involves ideas as well as words. Although the usages of the words 'town' and 'borough' overlap, the range of their meanings is different and the ideas or concepts which they represent can be distinguished - and need to be if we are to make sense of Domesday. The word 'town' in modern British English is one which is normally used to describe a type of human settlement which is found in many different societies and periods. When we talk of a place as a town, or as urban, we normally, I think, assume without thinking about it that we are talking about a permanent human settlement in which a significant proportion of the population is engaged in non-agricultural occupations - characteristically in a variety of trades and industries and probably in some administrative, political and professional work too. A town therefore normally lives off the food of the surrounding countryside (though of course it may import some from further away) and supplies this countryside with other goods and services in return. Its functions as a market centre make it also a convenient centre for religious, administrative and legal purposes, though which of these functions came first in any particular case will vary. Because of the distinctive functions of towns their inhabitants normally regard themselves, and are regarded by outsiders, as a different sort of people. However deeply they are divided among themselves they tend to be united at least in regarding themselves as united in their urbanity against the country bumpkins around.

This may seem a loose definition and one which is rather remote from the problems of Domesday Book. I maintain, however, that 'town' in this loose sense is the best translation of *burgus* in Domesday. I shall come back to that shortly, but first I should like to emphasise that in so far as the definition is loose it is loose because the category itself, though immediately recognisable, is essentially one with a fuzzy edge. Many places may be hard to assign to one side or the other of

the urban/rural boundary. In modern terms, is a place a town or a village if it has a handful of shops, one bank and maybe a jobbing builder and a pottery run by a drop-out from the rat-race as its only non-agricultural industries? With a few more shops, a chemist, several banks, and the pottery thriving to take on more staff it will slip over the boundary to urbanness. When it has a Boots it is right over: it is a town. With a Marks and Spencer it is not merely a town but a town which outranks other smaller towns round about. The looseness of the definition does not make it less useful. It is useful precisely because it is not cumbered with any of the characteristics of towns which derive from particular social and political circumstances. The concept represented in everyday use by the word town is therefore one which can be used comparatively when discussing different societies past and present. When we ask whether a particular society had towns we are asking a significant question and the answer will tell us something important about that society. The first necessity is to get clear what we mean by towns in general before we start to distinguish the different sorts of towns and the different characteristics which towns assumed in different societies and circumstances.

When we look at towns in different societies and different periods we are going to see a lot of different things. Physically - in size and buildings and so on - they have differed for many obvious reasons. At some times (like the middle ages) most towns were so small that to us they hardly look like towns at all. Still, if they fulfilled urban functions I would call them towns and we can use our knowledge of towns in general and our ideas about the essence of urbanness to analyse them. In different societies the essential functional and social distinctions between town and country may be marked in different ways: sometimes towns dominate the country, sometimes they are ruled separately. Privileges may be granted to them by some outside authority or acquired in other ways. But all these variations tell us about the circumstances in which towns live: they do not define towns as such. If we get bogged down in the merely local and occasional characteristics of urban life we make comparisons impossible and without comparisons with other societies we can make little sense of each. Charters, special tenures or rules of law, walls, market squares, mints, town halls, or insignia of independence do not define towns. They are characteristics of some towns in particular circumstances.

That is why I would rather talk about Domesday towns than Domesday boroughs. 'Borough' is a word which belongs in a particular society and implies particular legal and constitutional rules. Its connotations are particular, not general, and it is unsuitable for comparative use. *Burgus* in Domesday Book is

traditionally translated borough', but 'borough' has since 1086 acquired constitutional and legal connotations which have changed as the constitutional and legal circumstances of English towns have changed. It is hard to realise and remember that, if one has been trained, as I was, in the old traditions of constitutional history, but I have to keep reminding myself. Our sort of history grew out of legal history - lawyer's history - and that tended to look for precision through definition, pinning words down like butterflies to stop the distracting flutter of changing usage, changing phenomena and changing ways of looking at them through the centuries. By talking of medieval towns as boroughs we skewer them on the constitutional preoccupations of later historians. The evidence that Domesday Book uses *burgus* in the sense implied by our use of the word borough - that is a place belonging to a recognised category defined by a consistently distinctive status - is to my mind unconvincing. The use of the Old English word *byrig*, *burh*, *burg*, etc. the Latin *burgus*, and the later 'borough' is no more of a guide to understanding the origin, development and changing nature of English towns than is the use of the word car and its cognates in tracing the history of vehicles powered by the internal combustion engine. As the objective phenomena - towns or cars - change, the ideas people have about them, and the rules which are made about them, change too, though often patchily and belatedly. Sometimes changes of objective phenomena and of ideas are reflected in changes of vocabulary, sometimes not. Words, concepts, and things all change, but they tend to change out of kilter. Each is a poor guide to the other.

Failure to realise or remember this accounts for a good many of the controversies which surround what are usually called the 'boroughs' of Domesday Book and indeed medieval 'boroughs' in general. I shall therefore start by trying to clear our minds of later associations and by setting the scene of towns, the vocabulary used about them and the ideas of them which that seems to reveal, all as I think it was in 1086. To start with things or objective phenomena: the settlements, and the activities, rights and customs of their inhabitants, irrespective of the particular words used to denote them. It is, I think, established that during the tenth and eleventh centuries there was an increasing number of settlements in England which, although very small by our standards, fulfilled urban functions. They were growing partly because the economy as a whole was growing, partly because royal government was promoting recourse to them for minting, trading, litigation and tax-paying. As a result - and here I move from things to words - people needed to refer to them in many contexts: economic, military, political and presumably also because they were rather obvious landmarks. Old English offered

several words for the purpose, notably *byrig* (*burg*, *burga*, *burh*, etc.), *ceaster*, *port* and *wic*. These were traditionally rendered in Latin as *urbs*, *civitas* and *portus*, but other Latin words were available and sometimes used, and the OE glossaries suggest that the equivalents were never exact. Though *ceaster*, for instance, was normally rendered as *civitas*, someone who wanted to translate *cives* from Latin might use *burhware* or *portmen* instead of *ceasterwara*. By the eleventh century *urbs*, the traditional equivalent of *byrig*, was being varied or superseded by the vernacular-derived *burgus*, though we do not seem to have any record from before 1086 of the associated word *burgenses*, soon to be used all over northern Europe for townsmen.²

I have mentioned things (the growth of towns) and words.” I come now to the ways that people thought about towns and what lay behind the words they used. Given that towns were growing, changing and developing new customs and new solidarities, and that a number of different words were available for converse about them, one might expect that usage would be shifting, variable and inconsistent. Even without those conditions it might well have been, because that is how it normally is in real life. In real life words do not have exact or consistent meanings, nor can they be relied on to have either a neat range of mutually exclusive uses or one core or primary meaning which is more right than others. Dictionary makers deduce meanings or senses from usage. They do not control usage. It varies from place to place, even from speaker to speaker, as well as from time to time. In normal converse we have a very high tolerance of inconsistencies and varieties of meaning: think of words like *house* or *table*. Less common words are often used without anyone having any clear idea what they mean: look at *inflation* or *monetarism* or *parameters*. Medievalists, even those who admit that the word *burgus* was used loosely in *Domesday Book*, commonly seem to assume that it and its cognates had a fundamentally constitutional sense, that it primarily denoted - that it *ought* to denote - places of a particular legal or constitutional status.³ This is not only anachronistic. It is based on the surely mistaken idea that people were primarily thinking about the places they referred to as *byrigan* or *burgi* in constitutional terms and moreover that they were agreed about their constitutional and legal definitions. These assumptions ignore the usual way that words are used and the particular impossibility of achieving any uniformity or precision of legal usage in medieval conditions. Precise and consistent definition of terms is possible only in a legal system in which professional lawyers argue according to accepted rules and which has a system of appeals to a recognised

authority which records and publishes its decisions. In the eleventh century and for centuries afterwards none of these conditions obtained. Law in the eleventh century was administered locally by assemblies of local people under royal or seignorial officials. Uniformity of usage was impossible.

Towns in particular were likely to develop their own peculiar customs: within a general framework of shared values they developed procedures for commercial litigation, rules of land tenure and cash rents which were all both convenient to traders and craftsmen and profitable to king and lords. New rules and customs were, as they always are, both the result and the cause of disputes, disputes which were resolved in different ways in different towns. Even if someone, like the king, for instance, had wanted to define the rights and obligations of towns and townsmen in general he could not have done so. Not only would it have been unthinkable for any king, even William the Conqueror, to override all local customs, but the climate of thought and the technology of communication made comprehensive codification impossible. When general decrees were issued they must often have been interpreted differently all over the country: writs and law codes had no interpretation clauses. To take an example from Domesday: the entries for three of the towns described at the heads of their counties in Circuit III begin with their hidages, while that of the fourth (Cambridge) says that it was a half-hundred but was never hidated. This looks like a different interpretation of words - perhaps of a question asked - rather than a difference of substance. The varying relationships of towns with the hundreds around them can likewise probably be best explained by the varying ways that the same general system of government and law developed in different places. To try to deduce a single original pattern behind arrangements that can only have developed as towns and custom developed is to indulge in the sort of conjectural history that is associated rather with 'charter myths' or folk etymologies than with modern methods of scholarship.

To suppose therefore that every time that a place was referred to as a *burgus* or its inhabitants as *burgenses* it can be assumed to have had at least a lowest common denominator of status in common with other places referred to (at some time or another) as *burgi* is nonsensical. So it is to believe that because the word *ceaster* was generally used for the grander or more important towns, many of which had once been Roman and many of which were bishops' sees, everyone who used the word did so only after a quick bit of research on Roman Britain or cathedrals. The context of references to *byrigan* or *burgi*, *ceastra* or *civitates* varied and so the connotations attached to the words varied too. It was this

background of colloquial usage, supplemented probably by an equally indeterminate range of current west French usage, which was in the minds of King William's clerks or those whose words they wrote down, when they encased *burgus* and *burgensis* in the amber of a legal record that soon seemed to bear the authority of a Last Judgement.

This, at least, is what I deduce, given the background, from the variety of ways that places which look to me like towns were referred to in Domesday Book. Sometimes they are called *civitates* but more often *burgi*, while their inhabitants are nearly always *burgenses* rather than *cives*.⁴ Most of the places called *civitates* were also referred to as *burgi* or had inhabitants referred to as *burgenses*. Applied to such places the two words are generally used more or less indistinguishably, and where they are not the implied distinction looks *ad hoc* rather than a reflection of current usage.⁵ Most of these towns were centres of county government, most were bishops' sees and most were of Roman origin, but the three categories do not coincide exactly.⁶ Some places (including some of these) are on occasion also referred to simply as *villae*, Hereford (or part of Hereford) is once called Hereford port, and some places whose inhabitants are called *burgenses* are in this record themselves called *villae*. Sometimes, of course, the shape of sentences means that a place-name suffices and no common noun is needed.⁷ *Burgus* and *civitas*, I conclude, are not words which the clerks of Domesday used to denote a legal or constitutional status. They are words used in Domesday, as in other sources of the time, to denote places that people would have noticed, without any fuss about definitions or qualifications, as different from the ordinary run of agricultural villages and hamlets - though of course all of them would have included some inhabitants who made their livings from agricultural or horticultural pursuits.

Towns presented a problem to the makers of Domesday. Not a problem of classification or definition because they were not, I submit, in the business of classification or definition, but a practical problem of recording the king's property and rights, and other people's property and rights after a period of many dispossessions and much destruction, especially in so far as that property and those rights gave rise to obligations to the king. Much as towns had grown in the previous couple of centuries they were an anomaly in a predominantly rural scene and they did not fit normal categories. The smaller market towns, which were managed by royal or seignorial reeves along with the rural estates in which they lay, were not too difficult. Information about them could be entered with that of the

surrounding manor, generally in the form of a note of the income due from townspeople (*burgenses*) or traders (*mercatores*), or sometimes of the separate profit derived by the king or local lord from a market or tolls or mint.⁸ Bigger places, where the king had extensive interests, and where the more important of his subjects were likely to have property and interests too, were what posed a problem, and it is not surprising that they were dealt with separately. This special treatment, by which most of those entered in Great Domesday ended up in gaps carefully left for them at the beginning of the county sections, was not, however, merely the result of an *ad hoc* decision by either the commissioners or the final scribe,⁹ any more than it was the result of any distinctiveness as yet perceived in terms of a definable status. The towns with separate entries in both volumes are those which look as if they had, for one reason or another (generally size and complexity), become established as separate units of government under their respective sheriffs before 1066. In many cases there is evidence in Domesday that their sheriffs managed them, whether directly or through subordinates, as part of their general, county-wide duties, not as appendages of any single royal manor or group of manors.¹⁰ I do not, incidentally, think that it is helpful to describe either these towns or those mentioned along with the king's lands as 'royal boroughs'. The expression *burgum [sic] regis* is, I think, used only once in Domesday and the division between royal and seignorial boroughs does not seem to me to fit the political ideas or the fiscal realities of the eleventh century.¹¹ Every part of the kingdom was under some degree of royal authority and the king would draw some degree of profit from every big or important town (except, in 1086, Chester and perhaps some of the Sussex towns), but as the king's political and fiscal interest would be greater in a bigger town, so would that of others. Royal and seignorial interests in towns were not mutually exclusive.

The real problem for the Domesday commissioners was that the dues and obligations owed by large towns were complicated, profitable and distinctive - which was why towns were administered separately. As Domesday itself tells us, towns produced some collective services and lump sums for the king but a good deal was raised from them by cash payments of various sorts from individual householders. Given all that we know about English government before 1066 it seems highly likely that some written records of these were available. Two sorts seem to me detectable. First, though in some cases the customs set out in Domesday could have been reported only in oral testimony, the combination of detail in some entries with the survival of a report from Aethelred's reign about

tolls and customs at London makes it seem possible that inquiries were made from time to time into customs and tolls owed in at least the larger towns, and that written records of these were kept.¹² Second, and more important, in most of the bigger towns there must have been lists of householders' dues, some of the others perhaps on the lines of the Winchester list of c. 1057 which can be detected from the Winchester survey of c. 1110.¹³ But though some records of these kinds must have been available to the commissioners they can have been of only limited use. The relatively large and mobile populations of towns would at the best of times have made lists of householders complicated and have given them a built-in obsolescence, while any simplification through the substitution of lump sums would leave the record inadequate for the sort of verification that the Survey of 1086 was intended to achieve. The years between 1066 and 1086 had not been the best of times for most English towns and few lists can have been systematically revised or even annotated with any degree of thoroughness since the Conquest.¹⁴

Tentatively, I suggest that the Domesday commissioners' procedure for dealing with towns under shrieval control may have been something like this: the sheriff would produce the available records which would then be gone through in what were in principle county assemblies at which townspeople, along with at least some lords with urban properties, were present to give oral testimony to supplement, correct and bring the records up to date.¹⁵ How separate these sessions were from those at which rural properties were dealt with is unclear.¹⁶ Information provided by lords or hundred juries about urban property which owed rent to manors outside was not generally, if ever, incorporated into town entries, but whether inquiries into the two sorts of property were conducted together or separately the trouble of correlating the two sorts of information would have been enormous.¹⁷ In Devon the session to deal with towns under the sheriff may have been held early on as information about dependent town properties was added to that about rural estates but not vice versa, but that could be because the sheriff supplied the list direct. It need not imply that town and country sessions were totally separate.¹⁸ I see no reason to suppose that the town sessions were not part of the main inquiry by the first set of commissioners in 1086.¹⁹

What the commissioners asked about has to be deduced from the surviving entries, but they suggest that it was not in principle all that different, *mutatis mutandis*, from what they asked about manorial property: namely, what dues were paid TRE, what are paid now and what is the town worth, and how do you

account for any shortfalls since 1066?²⁰ Whether the resulting text was generally copied and cut and rearranged as much as Howard Clarke shows some of the non-urban returns to have been I do not know. All I can say is that the final scribe of Great Domesday certainly rearranged and abbreviated some of the material that he found in the provincial or circuit drafts.²¹

At any rate the result as we have it is, in my view, a lot more informative and systematic than is implied by the customary moans and wails about the 'borough entries'.²² The arrangement of the material is certainly varied - as it is in the manorial entries too, and the amount of detail varies. Detail, of course, was affected by the recopying, but we have to recognise that even at the first stage the commissioners and their clerks did not deal with enough towns to get into the swing of them as they could with rural estates.²³ It must have been very confusing to correct and correlate material in the written lists (such as they were) with that produced orally. We know that townsmen, or their representatives, sometimes produced contradictory testimony, but they may not have been much more reliable when they were united in placatory conciliation or mulish resentment. Their accounts of holdings which no longer paid the customs they had paid in King Edward's day must often have been presented in a disorganised way, for the information was complex, controversial, and covered a long and disturbed period. Nevertheless some of the lists which have been dismissed as confused are not too bad if one reckons that their point is not to give total numbers of burgesses or even of sums received, but to account for unpaid dues and give as good an idea as possible of what the king ought - in his servants' opinion - to be getting.²⁴

Starting from this point of view, one important piece of information comes across loud and clear. There was a lot to be got out of townspeople, partly in services of various kinds but mostly in cash. Many, perhaps most, people who lived in towns had to pay rent.²⁵ In most of the bigger towns many paid their rent to the king but others were tenants of nobles, churches or other townsmen and paid it to them. Some paid no rent, as such, and it may well be that there were more of these than are revealed in a record concerned with obligations rather than with freedom from them.²⁶ Other obligations which townsmen in general were expected to owe (though some did not fulfil their obligations and others were for one reason or another more or less legitimately exempt) were tolls and other customary dues and services commonly subsumed under the words custom (*consuetudo*), customs, or all customs. These words might or might not cover

military service or payments towards the military service of the town, and the tax which Domesday generally calls geld.

When we move from this level of generality things get difficult. The distinction between property rents (which often but not always seem to be meant by the words *redditus*, *census* or *gablum*²⁷) and the other dues (the customs) may have been clear enough when the rent was payable to another lord but customs went (as they more often did) to the king. It must, however, have been harder to maintain when both rent and customs (which were sometimes owed, like rents, annually, house by house) went to the king. There is no reason why the distinction between the king as king and the king as landlord should have been uniformly conceptualised in all towns.²⁸ Even if it had once been, it may well have become blurred since 1066 as increased sums were demanded and townspeople (especially the conquered English among them) had to muck in to make them up as best they could. This blurred distinction between the king as king and the king as lord may also help to explain the varying meanings which seem to attach to references to the king's *dominium* in the town entries. At Wareham, for instance, the houses *in dominio regis* excluded those belonging to the abbey of Saint Wandrille,²⁹ but at Hereford, where other lords certainly received payments from burgesses, the whole city was nevertheless referred to as *in dominio regis*. *Dominium* covered different sorts of lordship from property to government.

All the uncertainties which arise from ambiguous or inconsistent terminology (and I could cite many others) are very frustrating, especially if we want to use Domesday statistically, but I think that we should resist the illusory certainties of imposed definitions and resign ourselves to the impossibility of counting incomparable entities, or at least postpone counting until we are reasonably sure we understand what we are counting. All the town statistics are tricky. Even if we leave aside the horrid problem of multipliers, many entries do not give any total of burgesses or houses in 1086, or in 1066, or either. Some townspeople who paid rent (of some sort) to a lord other than the king were mentioned in the town entry, some were mentioned under the rural manor where they paid it, some (but not many) were mentioned in both places. It seems fairly clear, moreover, that the sort of townspeople who were likely to be recorded were the sort who headed fully contributing households: how many that omitted, especially in the bigger towns, is anyone's guess.³⁰ All this makes it impossible to work out reliable totals of burgesses or money where none are specified and prompts doubts whether such totals as are given are very significant. Nonetheless the statistics are still

suggestive and no one studying Domesday towns can fail to be grateful to the *Domesday Geographies* for their marshalling of the material. But statistics are not everything, and some of the uncertainties of terminology which frustrate us statistically are in themselves illuminating so far as, by reminding us how anachronistic is our desire for precision, they direct us to consider the uncertain conditions in which townspeople struggled to satisfy a rapacious government and the government struggled to maintain some modicum of custom and good order.

If we leave the obsessions with later legal technicalities and quantification which have bedevilled the study of Domesday towns - and the obsession with feudalism which has oddly bypassed some of the information about townsmen's military service - there is a lot of material still to be studied in the town entries. I shall pick out only one aspect that particularly interests me: namely the evidence of the collective activity of townspeople and their degree of collective organisation and independence. The corporate or unincorporated character of towns in 1066, their liberties or lack of liberties, and the effect on them of the Norman Conquest have been extensively discussed, but I think everyone, even Maitland and Tait (at both of whose names I nonetheless feel inclined to bow), has been so obsessed with looking for the origins of what came later that they have not looked hard enough at what Domesday says and implies about the situation in 1066.

Because English towns did not have charters of liberties before the Norman Conquest it does not mean that their inhabitants did not have any autonomy, did not promote their collective interests and did not bargain with the government. Charters were one method by which medieval kings and lords could recognise or increase or restrict local autonomy: they did not create it. All over Europe, even in Italy, they were rare before the twelfth century and became common then as a manifestation of the striking development of governmental control and above all of record-keeping at the time. Thanks to Domesday Book we can see that several towns had already won some collective privileges and can suspect that others may be behind low hidages and quotas of tax and service. Though town dues were not generally yet consolidated in a single lump sum,³¹ many of the smaller fixed renders, like the precise definitions of procedures and penalties at law, probably reflect past disputes and concessions. Dover, the first entry in the book, is a case in point. Before 1066 the king had done a deal with the townspeople whereby they provided a fixed quota of naval service and ferries for his messengers and in return kept most of the profits of justice from the town.³² At Colchester one

annual sum was said to be paid by *tota civitas* and another by the royal burgesses, the burgesses were said to manage some land outside the walls for themselves, and they and the burgesses of Maldon made a joint payment for their mints.³³ This confusion of groups and categories, seen in the context of medieval law and collective activity, is testimony less to lack of what later lawyers would call corporate status than to the acceptance of communal values.³⁴ Collective responsibility and collective bargaining were also common enough for the news of a good deal to get around and be copied. Exeter had to pay geld only when London, Winchester, and York did so, while three smaller towns in Devon had jumped on the band-wagon by an agreement that they should jointly do the same amount of military service as Exeter did.³⁵

The internal organisation through which towns withstood the demands of royal tax-collectors and the bullying of royal officials is obscure. Probably the main forum of activity was the town assembly, presided over though it was by a royal official, but at Dover and Canterbury, for instance, we know that there were town guilds which may have been conveniently free of outside supervision.³⁶ Either way, whether in assembly or guild, the lead is likely to have been taken by the more substantial townsmen, possibly in the persons of such lawmen or *judices* as are recorded at Cambridge, Chester, Lincoln, Stamford and York.³⁷ In some towns lawmen may, like the aldermen of London, have been responsible for wards, but even where wards are recorded they may not have been.³⁸ To us an even bigger problem than the leadership of towns at this time may be the definition of their membership. Domesday shows that some at least of the larger towns had defined territorial boundaries, within which the common obligations were shared and to which common privileges and rules belonged. Sometimes the town's jurisdiction extended outside the walls, though at Hereford those living outside paid slightly lower rents than those inside.³⁹ Within the boundaries, however defined, those who normally ranked as full members of the community - those normally referred to as *burgenses* or *cives* - were probably the resident householders who contributed their share of the town's customs. Two 'normallys' and one 'probably' in that sentence cover a mass of doubts and variations, variations that grew with growing populations, the sufferings and disruptions of the years since the Conquest, and the varying ways that towns coped with the result. In so far as Domesday reveals uncertainties and anomalies of this sort it reveals the truth: medieval towns, even the most independent and most fully

corporate (in later terms) seem to have lived in a permanent state of muddle and uncertainty about the qualifications and obligations of membership.⁴⁰

When all is said and done the most important thing about the town entries in Domesday is that, apart from brief notes that hint at the presence of a whole mass of smaller market towns or near towns, it gives enough information about roughly fifty places to show that, small as were their populations by modern standards, and despite the presence of agricultural workers among them, they were genuine towns. The amount of their revenues (however imperfect the totals), even the complexity and confusion of their revenues, and the collective activity that helped to raise them are evidence of that. Even if Domesday records little about trades and crafts (and why should it record more?) it is nonsensical to see most of the *burgi* as anything but active communities of what must have been a predominantly non-agricultural character. Whether most of them were flourishing or growing in 1086 is another matter. In many cases their total obligations, however made up, had grown, but it would be naive to take that as testimony to their prosperity. Many houses had been burnt or demolished, and though a few places, like the Channel ports, gained business from the link with Normandy, and in others Frenchmen had come to swell urban populations, a good many of these immigrants, like the French nobles and their followers who held town property, used their position as members or camp-followers of an occupying force to evade payment of the dues which their defeated neighbours owed.⁴¹ Perhaps by 1086 things were beginning to settle down but few English towns can have been very confident or harmonious communities. In such circumstances even the absence of complaint can be significant. The statements that the burgesses of Yarmouth gave the sheriff a *gersuma* or gift of £4 and a hawk freely and out of friendship (*gratis et amicitia*) and that, while 166 houses at Lincoln had been destroyed to make way for the castle, seventy-four others were uninhabited not because of oppression by the sheriffs and their servants but because of misfortune, poverty and fire, must have been diplomatically and carefully made.⁴²

Taken as a whole Domesday offers precious little support for the traditional assumption that the Norman Conquest marked a significant stage of English urban development. What it shows is a wide range of English towns battered by twenty years of war, oppression and dislocation, but some of them growing nevertheless. We know that the check to urban growth turned out to be temporary. I am tempted to deduce from Domesday that the one long-term effect of the Norman Conquest on towns was in so messing up the royal records of customs and dues and so breaking

the local acceptance of them that it must have seemed all the more advisable to leave towns to run themselves and keep their own records. Domesday's information about TRE, however, shows that that tendency was already formed, and everywhere in Europe it became accentuated in the twelfth century: I am probably being unduly influenced, as one so often is, by the particular way that this extraordinary record happens to lay a particular sort of information before me.

I think the Domesday town entries are more informative and reveal more significant information than many commentators, including the authors of the *Domesday Geographies*, suggest. That is because they are weakest on what the *Geographies* are most interested in and best at other less quantifiable aspects. But I nevertheless agree that they are difficult, very difficult. They have been made more difficult by being read as if they were written in the technical jargon of later lawyers and as if their compilers were preoccupied by what later constitutional historians or demographers would be preoccupied by, but even if one frees oneself from these obsessions, they remain difficult. It is very hard to know what was in the minds of the clerks and their informants. And regrettably we have to face the fact that they were not interested in telling us all that we want to know.

AFTERTHOUGHTS

- p. 296: The difference between village and town in nineteenth-century England is splendidly discussed in A. Trollope, *The Vicar of Bullhampton* (1870), at the beginning of [chapters 1 and 9](#).
- p. 301 n. 10: Malmesbury is a problem. Perhaps the information about it and other Wilts, towns under shrieval care was inserted around the preexisting list of landowners, but the reason why Malmesbury has more detail and comes first remains unclear.
- p. 305: The distinction 'between the king as king and the king as lord' (between references to notes 28 and 29) would have been better expressed as 'between the king as king and the king as property-owner or landlord': see my *Fiefs and Vassals*, especially pp. 53-64, 336, 345-7.

¹ I am grateful to Howard Clarke and Michael Metcalf for reading this paper and commenting on it to me.

² For earlier usage and its implications: J. Campbell, 'Bede's words for places', in P. H. Sawyer, ed., *Names Words and Graves* (Leeds, 1979), 34-54. For tenth- and eleventh-century use see J. Tait, *The Medieval English Borough* (Manchester, 1936), 25-67, and review of F. W. Maitland, *Domesday Book and Beyond*, in *EHR*, xii (1897), 768-77. Tenth- and eleventh-century glossaries are also suggestive, though they

show how words in classical or ecclesiastical sources would be translated rather than how to render vernacular words into Latin: R. P. Wülcker, ed., *Anglo-Saxon and Old English vocabularies* (London, 1884), for instance, does not include *burgus*. *Byrig*, rather than *burh*, seems to be the most commonly occurring form: A. di P. Healey and R. L. Venezky, *A Microfiche Concordance to Old English* (Toronto, 1980).

³ E.g. M. D. Lobel, *The commune of Bury St Edmunds* (Oxford, 1935), 3–15; Darby (1977), 289–90 (including references to ‘burghal status’, p. 290).

⁴ Shrewsbury and York are the only exceptions I have noticed. In both cases the expression *burgenses* is also used.

⁵ E.g. Gloucester (DB, i. 162a): the phrase *in burgo civitatis* contrasts with references to *muris civitatis* at Chester (i. 262b) and cf. Hereford (i. 179a) where those living *in civitate* are contrasted with those outside the walls. That land at Chester *nunquam pertinuit ad manerium extra civitatem sed ad burgum pertinet* suggests that the words were in this context synonymous. See below, n. 39.

⁶ J. H. Round’s list (*VCH Essex*, i. 415) is better than Ballard’s (*Domesday Boroughs* (Oxford, 1904) 5n.) or Darby’s (1977, 364–8) though it lacks Stafford. My list is Canterbury, Chester, Chichester, Colchester, Exeter, Gloucester, Hereford, Leicester, Lincoln, Oxford, Rochester, Shrewsbury, Stafford (i. 247b), Winchester (i. 44a), Worcester, York; with Colchester and Rochester as the non-county towns; Colchester, Gloucester, Leicester, Oxford, Shrewsbury and Stafford as non-episcopal; and Hereford, Oxford, Shrewsbury and Stafford as non-Roman.

⁷ E.g. Bury St Edmunds, known as ‘Seynt Eadmundesbiri’ or ‘-byri’ by the mid-eleventh century (Whitelock, *Anglo-Saxon Wills*, 68, 72, 73, 183; Harmer, *Anglo-Saxon Writs*, nos. 8, 18) and was described in DB, ii. 372a as having been enlarged since 1066 in a way which implies a distinctively urban character: cf. Lobel, *Bury St Edmunds*, 3–15.

⁸ Some omissions may be explicable by the absence of royal interests: e.g. St Albans; Hastings, Rye and possibly Winchelsea, where nearly all royal rights had passed to the lords of rapes; and perhaps Coventry.

⁹ I differ here from V. H. Galbraith (1974), 152, and C. Stephenson, ‘The composition and interpretation of Domesday Book’, *Speculum*, xxii (1947), 12, but not, I infer, from G. H. Martin (1985), 158–9.

¹⁰ The information, for instance, about Dover, Canterbury and Rochester in the introductory section of Kent is clearly attuned to royal rights and what the sheriff collected. The absence of any town at the beginning of Sussex may result from the fragmentation of royal rights among the rape lords. The four towns at the beginning of the Dorset section (and in the same position though a slightly different order in Exon Domesday) were presumably dealt with as a group by the sheriff. In Exon Domesday Barnstaple, Lydford, and Exeter, in that order, are at the end of the royal property in Devon, and Totes is at the end of Juhel’s. Though in Great Domesday Barnstaple and Lydford were put at the beginning of the king’s land and Totnes at the beginning of Juhel’s, they had presumably all been looked after by the sheriff in 1066 and all but Totnes still were in 1086. The renders of Oxford, Northampton, Leicester, Warwick, Worcester, Hereford and Chester were all, at least in part, combined with those of their counties. Nottingham and Derby were entered together at the beginning of Notts, since the two counties were run by one sheriff. In DB, ii. Colchester is after the *invasiones* for Essex; Norwich, Yarmouth and Thetford are together after the main section of the king’s land (and before the escheats) in Norfolk; and Ipswich is at the end of the king’s land in Suffolk. Dr Ann Williams has pointed out to me that the entry of, e.g. the bishop of Worcester’s property in Worcester (DB, i. 173b) apart from the main entry confirms my hypothesis about the reason for the separate town entries.

¹¹ The Stamford entry (DB, i. 336b) begins by saying what geld the *burgum regis* gave TRE: presumably the intention was to distinguish the main (Lines.) part of the town from the holdings of Queen Edith and Peterborough abbey, which were outside the county and shared most but not all of the common obligations.

¹² *Gesetze*, i. 232–6; for the date: P. Wormald, ‘Aethelred the Lawmaker’, in D. Hill, ed., *Ethelred the Unready* (Oxford, 1978), 62–3. The correction from *sunt* to *erant* in the Lewes customs (DB, i. 26a) might

imply a direct copying from a pre-Conquest exemplar, but this is unlikely in the final text. The tense used of the immediately preceding customs varies but in this case the changed relation of earl and king made the tense important and the scribe may have realised this while writing.

¹³ WS, i. 9–10, 407. The absence of information about 1086 might imply that the returns for DB had disappeared if they had ever been made, but cf. the Gloucester and Winchcomb surveys of c. 1100: A. S. Ellis, ‘Domesday tenants of Gloucestershire’, *Transactions of the Bristol and Gloucestershire Archaeological Society*, iv (1879–80), 91–3.

¹⁴ Failure to mention new cathedrals in the towns to which sees had been recently moved might reflect a reliance on out-of-date lists (though see below, n. 24). The sheriff of Devon, on the other hand, may have had a list of current landowners with property in Exeter and Barnstaple: below, p. 303 and nn. 17, 18.

¹⁵ The Nottingham and Derby entries and the arrangements of other towns listed in n. 10 suggest that the sessions were county rather than town ones.

¹⁶ See the suggestion of Harvey (1975), 179.

¹⁷ Lists of properties attached to manors appear in the relevant *Domesday Geographies*. Note, e.g. Wallingford: *Domesday Geography of South-East England*, 276–7. Lists in DB town entries of lords with urban properties do not follow the order either of the county lists of tenants in chief or (where these differ) of the entries of their holdings. The Devon list of urban properties (see n. 18) was not correlated with the manorial returns into which it was incorporated: see the different number of burgesses in Barnstaple attributed to Baldwin the sheriff in Exon Domesday, 123b, and DB, i. 102a. To judge from *Inquisitio Eliensis* (ICC, 120–1), information about Ely properties in Cambridge was cut down in recopying. Cf. Martin (1985), 155–6, on St Augustine’s Canterbury material.

¹⁸ In Exon Domesday it is always added at the end of the tenant’s holding, but in DB it is sometimes at the beginning: references listed in Darby, *Domesday Geography of South-West England*, 281, 283.

¹⁹ Following H. B. Clarke’s suggestion about the nature of the two inquiries: Clarke (1985), 66.

²⁰ Information about *quando receptit* was often inapplicable to towns, but I have noted references, or possible allusions, to it or to *postea* for Dover, Rochester, Pevensey, Chichester(?), Wallingford, Wilton, Exeter(?), Hertford, Gloucester, Winchcombe, Chester, Nottingham and Maldon. This distribution does not run counter to that plotted by Darby (1977), 212.

²¹ For Devon, above, n. 18; for Cambridge, n. 17. The gap left for Derby (DB, i. 272a) suggests that the scribe was rethinking his plan as he copied. In general, see Clarke (1985) and Martin (1985).

²² E.g. Stephenson, ‘Composition and Interpretation’, 12; Darby (1977), 289.

²³ Though note similarities of towns dealt with in single counties (e.g. Dorset); of those in Circuits III and IV (except that at Warwick 1086 information is given first); and of Hereford, Shrewsbury and Chester.

²⁴ Darby’s condemnation e.g. of the Norwich entry (*Domesday Geography of Eastern England* (3rd edn, 1971), 139) seems to me unjustified. Round (‘Domesday of Colchester’, *Antiquary*, vi (1882), 56; VCH Essex, i. 417) was so busy worrying about Freeman’s errors and the difference between Normans and English that he apparently failed to notice that the difference between the two lists of the Colchester entry is that one is of those paying custom and the other is of those not paying. One reason why new cathedrals are omitted (or perhaps subsumed in ecclesiastical estates nearby) may be that their urban tenants were exempt from custom.

²⁵ The units of property are described variously as *mansurae*, *masurae*, *mansiones*, *hagae*, or *domus*. Some entries use two or more of these words, some use none. Apart from a single reference in the Huntingdon entry, *hagae* seem to be referred to only in Circuit I. The *hagae* in Oxford are mentioned in the Berkshire section (i.e. in Circuit I): DB, i. 57b, 62. DB, i. 106b uses *domus* where Exon Domesday, 298, uses *mansurae*, so some of the variations come from copying rather than from varying local vocabularies. At Wallingford the same properties are referred to both as *hagae* and *masurae* (DB, i. 56b, 59b), but at

Chichester (i. 23a) the number of houses is distinguished from the number of *hagae*. The need to make distinctions would depend on circumstances.

²⁶ At Wallingford (DB, i. 56b) some people had the *gabulum* from their own houses and received penalties for certain offences committed in them. At Stamford (i. 336b) there were sokemen who held their lands in *dominio* and from whom the king received only penalties, heriot and toll. At Southampton (i. 52a) some had their houses free (*quietas*) or had had the customs from them granted to them by King William. In other places rent as such may or may not be included in 'customs'.

²⁷ For varying uses of *census* see e.g. DB, i. 179a (Hereford entry); *gabulum* seems to be a latinisation of *gafol* which was also used in the eleventh century (J. Earle and C. Plummer, eds., *Two Saxon Chronicles Parallel* (Oxford, 1892), i. 339) for the tax which seems to be called *geldum* in DB.

²⁸ J. H. Round, 'Danegeld and the finance of Domesday', in *Domesday Studies*, i. 77–142, maintained that the distinction was vital (and cf. *VCH Berks.*, i. 311). It is certainly clear in the examples he mentions but these do not include entries which refer simply to undifferentiated customs or in which other lords are not mentioned. He also said ('Danegeld and finance', 124) that 'custom' included all customary dues, but this vitiates his distinction since rent would normally be customary. At Worcester (DB, i. 172a) the king took no custom from individual houses except *census domorum sicut unicuique pertinebat*. The Winchester survey of c. 1100 calls *langabulum* and *brugabulum* customs: *WS*, i. 33, 44, 47. Cf. F. W. Maitland, *Township and Borough* (Cambridge, 1898), 48–9, 70–3, 185–6.

²⁹ But it is not clear whether it excluded houses not in the main entry which paid rent to other churches (listed in Darby, *Domesday Geography of South-West England*, 121). The *burgenses regii* at Colchester (DB, ii. 107) were presumably those who rendered custom, but there is no evidence that any burgesses had been exempt from it TRE (i. 104–7): those who were not 'royal burgesses' in 1086 seem therefore to be those who, rightly or wrongly, were not then contributing. Fewer lords probably got away with freedom from custom before 1066. Tait's argument from twelfth-century evidence for an original distinction between burgessland in custom and thegnland not in custom (*Medieval English Borough*, 88–96) seems to derive from the sort of 'conjectural history' which I suggest above is dangerous.

³⁰ The Norwich bordars (probably former burgesses) who paid no custom because of their poverty may be exceptional more in being mentioned than for any other reason. Cf. C. Dyer, 'Towns and cottages in 11th-century England', in H. Mayr-Harting and R. I. Moore, eds., *Studies in Medieval History presented to R. H. C. Davis* (London, 1985), 91–106.

³¹ The idea of a 'borough farm' at this date may therefore be slightly misleading. Where the constituents of *firmæ* are mentioned they seem very various. In other cases it is impossible to know what was included or to be sure of the distinction between *firmæ* and other sums which were perhaps equally fixed. At Colchester (DB, ii. 107a) the payment for victualling of *solidarii* or *expeditio* was excluded from the farm because it was made only if the king took service (not, as Round inexplicably maintained (*VCH Essex*, i. 422) whether he did or not) and presumably because, like the payment made to the *milites* of Berkshire, it was for the men's own support. Money for victuals, etc., is also mentioned in the entries for Lewes, the Dorset towns, Malmesbury and Wallingford.

³² Profits of justice from Michaelmas to St Andrew's day still went to the king. Though there is no proper entry for Romney a similar arrangement (not specifying the autumn exception) seems to have been made there (DB, i. 4b, 10b) and perhaps at others of the later Cinque Port.

³³ DB, ii. 107a–b.

³⁴ This is further discussed in S. Reynolds, *Kingdoms and Communities in Western Europe, 900–1300* (Oxford, 1984), 12–38, 158–68.

³⁵ DB, i. 100a, 108b.

³⁶ DB, i. 1a, 3a; S. Reynolds, *English Medieval Towns* (Oxford, 1977), 82.

³⁷ Stenton (in *Lincolnshire Domesday* (Lines. Rec. Soc., xix, 1924), xxix-xxx) thought that the Lincoln and Stamford lawmen, who were said to have sac and soc (in Stamford explicitly over their own houses and men) were by 1086 probably ⁴a group of privileged burgesses rather than the expert members of a borough moot'. Having peculiar independence over their own households however would not exclude them from also having wider authority in their towns: the first might be a corollary of the second. If they did not have any wider authority they would not have been significantly different from some one like Tochi son of Outi at Lincoln or the seventy-seven sokemen at Stamford. The constitutional developments of the twelfth and thirteenth centuries would explain the atrophy of the lawmen's position between 1086 and 1279 better than anything before 1086 could do.

³⁸ Wards were mentioned at Cambridge and Stamford, ferlings at Huntingdon and shires at York. A *senator* (presumably alderman) of London is referred to in the mid-eleventh century and wards early in the twelfth: S. Reynolds, 'Rulers of London in the Twelfth Century', *History*, lvii (1972), 339n.

³⁹ DB, i. 179a. The evidence does not support the contention (e.g. in Reynolds, *English Medieval Towns*, 97) that *civitas* normally meant the whole jurisdictional area as distinct from the walled *burgus*: above n. 5.

⁴⁰ Reynolds, *Kingdoms and Communities*, 184-8 (incidentally correcting Reynolds, *English Medieval Towns*, 125-6).

⁴¹ A clear case of non-contributing immigrants is Shrewsbury (DB, i. 52a) but the lists of non-contributors elsewhere (e.g. Cambridge, Colchester, Norwich) are also significant. At Nottingham the new settlement seems to have been made to contribute to the obligations of the old: the sheriff is referred to as *apportens eas* [i.e. thirteen new houses] in *censu veteris burgi*: DB, i. 280a.,

⁴² DB, ii. 118b; i. 336a.

IX

THE RULERS OF LONDON IN THE TWELFTH CENTURY

THE LIST OF THOSE who have written about the government of London in the twelfth century includes such a number of distinguished medieval historians from Stubbs onwards that it may seem both presumptuous and unnecessary to reopen the subject without substantial new evidence.¹ Nearly all the published work, however, was written before the recent surge of interest in medieval towns and much of it is based on assumptions about the economic interests and social structure of London which do not seem to be confirmed by what is known about other great towns. Again, some of the most learned commentators on the twelfth-century shrievalty and farm of London were not primarily concerned with the city itself and perhaps for that reason allowed inconsistencies or gaps to remain in their work which are revealed if one tries to work out a coherent and continuous story.²

Most conclusions so far have been based on the evidence of the royal charters and pipe rolls, with a more or less casual selection of references from chronicles and from the mass of surviving deeds and similar documents.³ The nature of the evidence has dominated the form of the discussion and, combined with the natural desire of historians to make their sources tell a story, has produced pictures in which the king and citizens stand starkly opposed. On one side is the king, represented by curial or aristocratic officials who were outsiders to the city, and on the other are the leading Londoners, depicted as a solid group bound together primarily by their economic interests, but also by close family relationships. Round thought that 'the commercial as against the territorial element' did not become the dominant class in the city until 1191, but later historians, putting the significant growth of trade earlier, have correspondingly tended to assume that the city's interests were commercial throughout the century. In the struggle with the Crown which usually dominates accounts of the city's history the patricians are

seen as securing their first real liberties from Henry I, losing them under Henry II, and regaining and enlarging them under his sons.

Not all of this traditional picture is unacceptable. Clearly there was ample reason for conflict between king and towns in the conditions of twelfth-century government and clearly the growth of trade was deeply involved in them. On the other hand, it is not a matter of course that the nature and crises of the conflict should be accurately reflected in the gnomonic language of official records, or that conscious economic interests alone, even if we were sure of their nature, motivated leading townsmen. How far the Londoners of this period were merchants, and how far they had links with feudal or other classes outside, are questions which have as yet been begged more than asked,⁴ while much of the evidence for their family relationships is tenuous. It is the contention of this article that while the city's progress towards independence was more straightforward than has been thought, with no setback under Henry II, the identity and interests of its rulers are much more doubtful. Some preliminary conclusions may be drawn about the sheriffs and aldermen. What is known about individual sheriffs is set out on pp. 354-357. The list of aldermen remains very incomplete (about a hundred are known before 1216), but it looks as though their position was transformed during the century as London grew in population, wealth and independence. From being merely a social and legal elite within the city's courts they became a collective body with increasingly coherent political interests and increasingly valuable powers over their fellow-citizens.

The first part of the century, before the Pipe Roll of 1130, is very obscure. In the absence of a Domesday entry, let alone of such pre-Conquest material as might illuminate the earliest origins of London's wealth, much depends on the retrospective use of later material, while the general impression of the twelfth century is of a kind and scale of change that may invalidate such methods. Nevertheless there is some information which is early enough and there is no doubt that by 1100 London was by contemporary standards a major place of local and international trade,⁵ that it possessed a number of the institutions of local government which later characterized it, and that they gave ample scope for the development of an official hierarchy. The court of husting, which had been in existence since the tenth century, met weekly by the early twelfth century, and, judging by the scarcity of references to the folkmoot in action, may have been already the most important organ of local government.⁶ Aldermen seem to have been already presiding over the city's wards, though they are not mentioned in

connection with the husting before the middle of the century.⁷ Round pointed out that there was no evidence of their acting in a corporate or consultative capacity before 1191, and they may certainly have had little call to do so before 1130. Only about a score of them are recorded before 1130, and little is known of these. Two were probably moneyers and one perhaps a canon of St. Paul's.⁸ Some inheritance of wards has been suggested but the aldermanic genealogies concerned seem to be based only on the coincidence of personal names.⁹ It may be worth noting that on the one hand the alderman of the weavers' guild in 1130 may have been the son and brother of aldermen of wards, and that on the other several prominent Englishborn citizens (if not aldermen) of London, had been knights on the archbishop of Canterbury's fee before the turn of the century; one of these married a relative of Gilbert de Clare, first earl of Pembroke.¹⁰ One fact about the aldermen which distinguished them from the barons of the realm with whom they and their fellow-citizens claimed some sort of parity¹¹ was their nationality. Three were members of the guild of English *cnihtas* which handed over its property to Holy Trinity Aldgate in 1125, and there is evidence both of early intermarriage between Normans and English and of the survival of a strong English element in the aldermanic class throughout the twelfth century.¹² No aldermen or other prominent citizens of alien origin, apart from Normans and Scandinavians, have been found as early as this. Two twelfth-century families, the Bucuintes and the Buckerels, have been credited with Italian ancestors who settled soon after the Conquest, and further embroidery has made the founding Buckerel a pepperer, but there is no apparent evidence for seeing their origins as either alien or mercantile.¹³ There was of course a Jewish community which seems to have been introduced by the Conqueror and included money-lenders, but they cannot be considered as potential patricians and in any case their businesses probably lay as much outside the city as within it.¹⁴ As with later gentile citizens it may be important to distinguish the evidence and the social and economic function of moneylending from those of commodity trade.

As yet the power of the city hierarchy was limited by the royal officials who presided over it and who may or may not have been part of it. How soon the offices of sheriff and portreeve were combined permanently is, despite Round's arguments, uncertain.¹⁵ They were certainly united by 1128,¹⁶ but the list of officials before then, imperfect as it is, contains several persons who may have

served as reeves alongside sheriffs. The only real evidence of an earlier unification comes from the charters of 1141 by which Matilda and Stephen successively granted the shrievalty and justiciarship of London and Middlesex to Geoffrey de Mandeville at a farm of £300 (presumably tale) and which stated that he was to hold as his grandfather Geoffrey had done.¹⁷ This was an *ex parte* statement about what was in twelfth-century terms fairly distant history and it seems wise to treat it as such, both about the tenure of offices and about the level of the farm. Any concentration of power that the single office might have created was in any case nullified by the appearance of local justiciars. They too are difficult to disentangle from the sheriffs and it is tempting to wonder whether the offices were less clearly distinguished by contemporaries than by some later historians. The picture is still further complicated by the king's use of constables of the Tower, lords of Baynard's Castle, his chamberlains of London, and even his moneyers as channels of royal authority on occasion.¹⁸ It may be that just when the growth of population and trade were necessitating more active local government the Norman kings were circumscribing the city's autonomy by closer and more multifarious supervision. The winding up of the gild of English cnihtas in 1125 could have been prompted by the obsolescence of their functions under changed constitutional or even—*pace* Stenton—military conditions.¹⁹

Though little is known of some of them, and only one is even doubtfully identifiable as an alderman, most of the sheriffs or justiciars before 1130 can be shown to have owned land in London. In some cases the connection may have been the result rather than the cause of their appointment, and many other royal servants must have had London property, but it is not unlikely that the king should use men of local standing in such a post just as he used the constables of the Tower and Baynard's Castle to back them up. The 'marked shift from the aristocratic to the burgess type' of sheriffs which has been detected in the 'twenties²⁰ cannot be substantiated: not enough is known of the men concerned and the terms are impossible to define, particularly in view of Henry I's reputation for the selection of his ministers.

The Pipe Roll of 1130 marks a significant stage in our knowledge. Four sheriffs accounted jointly for London and Middlesex at Michaelmas, and at the end of their account they owed £310 9s 2d from a farm of apparently £525 0s 10½d blanch. Ignoring the suggestion of 1141 that it had once been £300 we do not know anything about the farm of London before 1130 except that two sets of arrears were then being paid off and that the previous sheriff had offered a *gersoma* of

120 marks. At some time in 1129-30 the Londoners took an important step towards self-government when they offered 100 marks, paying £30 down, to have a sheriff (or sheriffs) of their own choice. Round thought that the four sheriffs of the Pipe Rolls were the first city nominees, though he found it hard to explain why it was the king whom they paid for permission to resign.²¹ A multiple shrievalty looks suitable for elective sheriffs, but some subsequent joint sheriffs were not elected, and we do not know that these four were the first of the new regime rather than the last of the old. Two of them had demonstrable city connections, but so did some of their predecessors. None of them can be shown to have been either a trader or an alderman. We may even wonder whether the elective shrievalty would have been as valuable to London as it was to other towns. The usual effect of such a grant was to recognize a town's corporate existence apart from the county in which it lay, and to enable its inhabitants to appoint a townsman who would feel more solidarity with them when he represented them at the Exchequer. London's dominance over Middlesex made the first benefit otiose, while the difficulty of defining contemporary Londoners and their interests makes solidarity hard to assess: the evidence of Henry II's reign suggests no simple correlation between citizen election and the representation of citizen, as opposed to royal, interests.

Apart from the Pipe Roll the other key document of Henry I's reign is the remarkable charter in which the king, as well as confirming existing liberties, some of which look very old, granted the citizens the shrievalty of London and Middlesex at a farm of £300 tale and allowed them to appoint their own sheriff and justiciar.²² The charter is a difficult document, not only because its relation to the Pipe Roll both in time and in substance is uncertain, but because there is some reason for doubting whether it is genuine. The earliest text dates from the thirteenth century, and it is paradoxical that it should have been the mighty Henry I who made concessions and the weak Stephen who revoked them, apparently with impunity.

The reign of Stephen affords a series of tantalizing and baffling glimpses into the affairs of the city. Whatever one makes of the Londoners' claim to elect the king—and it may be a mistake to interpret it too legalistically—the pact or treaty which Stephen made with them at his accession looks like the kind of oath by which rulers recognized communes at the time. There does not seem to be any reason to doubt that the Londoners' commune referred to in 1141 was the same kind of association as was formed in towns across the channel. The Londoners

paid for Stephen's recognition of their commune with more than their support for his election, to judge from contemporary remarks about his extortions of money from them.²³ Then in July 1141, according to R. H. C. Davis's dating of Geoffrey de Mandeville's charters, Matilda made Geoffrey sheriff and justiciar of London and Middlesex at a farm of £300 (the sum mentioned in 'Henry I's' charter). Whether or not his grandfather had indeed held both offices, or either, Geoffrey's father had at one time been constable of the Tower²⁴ and Geoffrey himself held it just before the empress's grant. It was no doubt the basis of his power in the city. Since his charter from Matilda describes the Londoners as his mortal enemies he cannot have made any bargain with them by which they acquiesced in the loss of their rights, though Osbert Eighpence, hitherto their justiciar, may have done a deal with him on his own account. Osbert, the rich citizen who gave Thomas Becket his start in life and who incidentally held land by knight service in the home counties, had to flee the city in consequence. Geoffrey presumably remained in some sort of control until 1143, when he is known to have had the Tower taken from him. One sheriff and two justiciars can be found who may have held office after his fall. The sheriff, being simply called John, is really unplaceable, though optimistic guesses have identified him both with Henry II's first sheriff and with the son of one of Henry I's. The justiciars were both Londoners: one was to serve as sheriff under Henry II, and either might have been appointed by the citizens.²⁵ Though Henry I's charter therefore may have been in force until 1141 we cannot tell whether the citizens regained their rights under it after 1143. As for the farm, it was back at over £520 (as in the Pipe Roll of 1130) by 1155-6. James Tait was probably right in thinking that Stephen's indebtedness to the Londoners makes him unlikely to have raised it, but we lack so much information about their mutual relations that it is not easy to know where to put this single item in the balance. In any case the level of the farm may have been largely notional under Stephen.

Tait thought that throughout Henry II's reign 'London had less control over its financial officers than Shrewsbury or Bridgnorth' and another historian has suggested that after 1154 the city's political life lost much of its sparkle.²⁶ It is true that the farm was fixed from 1155-6 at £500 blanch and £22 tale,²⁷ that Henry's confirmation of his grandfather's charter (if that is what it was) omitted the vital first clause,²⁸ and that there is no explicit indication in the Pipe Rolls or elsewhere that the citizens were electing their sheriffs, but the situation is much less clear than that implies. Although Henry quashed communes in Gloucester and

York, his attitude to Eu, La Rochelle and Rouen implies that he may have been more pragmatic about urban government than Richard of Devizes or most modern historians have thought. It is unlikely that he allowed his policy towards London to be determined for long by filial resentment at the citizens' past behaviour to his mother.²⁹ Further, the Pipe Rolls, useful as they are, are not always easy to interpret: even the list of sheriffs is not quite perfect and though the rolls before 1191 do not say that the sheriffs were appointed by the citizens neither do they say that they were not.³⁰ One of the effects of electing sheriffs was to make the citizens technically responsible as a body for arrears. It could be therefore that when sheriffs under Henry II took over their predecessors' debts, as happened in 1162 and perhaps in 1159, they did so under an arrangement by which the citizens had agreed to pay off outstanding debts (recouping themselves no doubt from the debtors) in return for control of the sheriffs in future, or that both old and new sheriffs were equally responsible to the citizens so that the earlier debts were automatically taken on by their new nominees. When former sheriffs accounted jointly rather than separately for arrears that could perhaps also imply that their responsibility had been representative rather than personal. On this basis London may thus have been appointing its own sheriffs between c. 1157-9 and 1169 at least.³¹ Even if it was not, nearly all of those who held office throughout the reign are identifiable as city landowners, some as merchants or craftsmen, and a few as aldermen or the fathers of aldermen. Some seem to be members of families who crop up frequently in London records and others can be found witnessing deeds and generally giving evidence of interaction with each other and their fellow citizens. One consortium of four well-connected sheriffs who piled up a particularly high debt had to give sureties for its payment when they retired. Their twenty-nine pledges included several future sheriffs and one of their immediate successors, and the whole list shows that even if sheriffs were not elected by their fellow citizens they could find solidarity and support among them.³² There seems to be no difference between the sort of men probably appointed by the government in Henry II's reign, those who may have been elected in the same period, or those who certainly were elected later. The same applies even to the custodians who replaced regular sheriffs for two years in the 'seventies. They were probably put in when the king visited London during the closing stages of the rebellion and war of 1173-4.³³ Whatever the immediate cause of the change,³⁴ it is not clear that those appointed were particularly pliable tools for a harsh royal policy: one had been sheriff, perhaps on city nomination, some time before, and the other had

stood surety for one of the sheriffs of 1169-72. Financially the result of managing London and Middlesex through custodians was to reduce the income on the farm account, but the collection of arrears was speeded, no doubt, by closer supervision from Exchequer.

There is no evidence about how the sheriffs were appointed between 1176 and 1189, but it is clear that the city was being allowed to extend its corporate responsibility in other ways. The *dona* of 1161 and 1173 had already been accounted for on behalf of the citizens as a group, and after 1168 the king stopped excusing individuals from their contributions to levies, which suggests that assessment was coming more under city control. In the 'eighties the citizens took over responsibility for the arrears of all past taxes and in 1182-3 they corporately farmed Queenhithe. Henry II may not have liked urban liberties in theory, but he evidently accepted corporate action in practice.

Far from having a deadening effect on city politics therefore it looks as though the development of Exchequer control under Henry II provided a stimulus to London's internal government. The negotiation and payment of aids and *dona* necessitated, if nothing else did, a unified body to make and enforce decisions on behalf of the whole community: not, incidentally, that the fiscal pressure of Henry's government on London was consistently heavy. Nothing was paid in his time from the amercement of illicit guilds recorded in 1180, no aids were levied after 1177, very little was paid on the arrears of past grants, and in each of the last two accounts of the reign £100 of the farm were pardoned.³⁵ It is clear that corporate negotiation with the central government went on, though the absence of official city records for the period leaves the identity of those responsible in doubt. It seems reasonable to guess that a decision-making body was beginning to develop within the husting and that the aldermen were the chief decision makers.³⁶ There is, however, nothing to show how far power was restricted to them or how far they consulted the lesser members of the court or even the wider body of citizens in the folkmoet.

Less than fifty aldermen have so far been identified in the middle and later years of the century.³⁷ Nearly half certainly owned land in London, a handful had some outside, and another handful can definitely be connected with trade or industry. Some seem to have followed their fathers or grandfathers in office or were followed by their sons, but their wards can seldom be identified and there is no evidence of actual inheritance.³⁸ It has sometimes been implied that the

aldermen at this time were an exclusive and self-perpetuating group. Yet the evidence so far accumulated about them is very tenuous. Not all those called *Albus*, *Blundus*, or *le Wite* were related, for instance, especially since some were Christians and others Jews, and similar doubts attach to people called *Vetulus*, *Vetus*, *Senex*, or *le Viel*.³⁹ Less than half of the aldermen recorded before c. 1216 can be proved to have been related to each other or to others who are prominent in London records. Overemphasis on supposed family relationships reaches a peak when families are described as dynasties and seen as a dominant group within the so-called 'patriciate'.⁴⁰ There were indeed families before 1216 which provided a number of office-holders, and it is certain that in London as elsewhere family connections conferred prestige and influence, but it is impossible to be sure that long-settled or inter-related families formed any sort of inner ring in the aldermanic body. A certain degree of social and geographical mobility is rather to be expected in the economic and demographic conditions of the twelfth century. One prominent citizen of the period was called John of Burgundy,⁴¹ while alderman Arnold fitz Thedmar, who was born in 1201, was the son of one German immigrant of unknown origins and, through his mother, the grandson of another, who had arrived since 1170.⁴² As always, many immigrants from the country probably stayed poor, but the apparent lack of hard and fast qualifications for citizenship together with the year-and-day enfranchisement of serfs suggest that as yet London society was relatively open.⁴³ Nor naturally was social mobility only upward: Thomas Becket's father, for instance, lost his property through frequent fires.⁴⁴ Other prosperous families presumably disappeared much as they did at other times, with the relatively uncrowded conditions perhaps offset by the current enthusiasm for the religious life as a destructive factor.

The questions whether prominent Londoners owed their fortunes to trade or land, and how far they were socially divided from other landowners outside, remain more or less unanswerable in this second part of the century. Evidence of trade is sparse, but lends some support to the common view that leading citizens were most likely to deal in its luxury and mercantile branches. The bias of the evidence is towards landed property, but even allowing for that it seems that much of London's wealth was invested in land and that some fortunes were founded on the rising value of urban property. Quitrents were becoming an accepted form of investment and at least some sheriffs and aldermen held more shops and houses than they could have occupied themselves.⁴⁵ Some also held land outside the city

and a few held by knight service. Often, however, their country properties lay near London and may have been bought—or acquired through mortgages—after they made fortunes in the city.⁴⁶ Links with the landowning classes outside are hard to establish. Henry fitz Ailwin, the first mayor (d. 1212), whose family may never have been engaged in trade, had an equestrian seal and held at least two fees in Kent. His descendants left the city entirely and became absorbed in the feudal classes.⁴⁷ It has been said that Robert fitz Walter, lord of Baynard's Castle and 'marshal of the army of God' in 1215, had a brother who was custodian of London and Middlesex in 1174-6 and an alderman even earlier.⁴⁸ If that were true it would provide a most interesting example of a link between feudal and 'patrician' classes (as well as of vigorous longevity): unfortunately the genealogy rests on nothing but the coincidence of three common personal names.

The Cornhill family illustrates the dangers of drawing easy conclusions about the 'patriciate'.⁴⁹ Gervase of Cornhill came from a London landowning family of mixed Norman and English descent. His father, who died on a pilgrimage to Jerusalem before 1130, had been sheriff or reeve of London, and Gervase himself became justiciar of London under Stephen; joint sheriff (or perhaps justiciar) with John fitz Ralph, possibly also the son of a sheriff and formerly Gervase's guardian, in 1155-7; and sheriff on his own, perhaps on city nomination, in 1160-1 (and perhaps the previous year). Clearly he was a man of London contacts and interests, and he may, as Round suggested, have been the otherwise unknown Gervase who acted as one of the Londoners' spokesmen to the king in 1174.⁵⁰ Yet his interests extended well beyond the city walls. He served as sheriff in Kent and Surrey and held land in several counties, some of it by knight service, though the service of at least one of his fees was owed in cash payable in London. Gervase was a money-lender and acquired some of his land through mortgages, though his connection with William Cade, the St. Omer money-lender, has been exaggerated.⁵¹ Round contradicted his own implied suggestion that the earlier Corn- hills belonged to a territorial aristocracy in the city when he alluded to Gervase's 'mercantile origin and profitable money-lending business'.⁵² There is no evidence that Gervase dealt in anything but land and money or that his ancestors were even as 'mercantile' as that. His three sons, Henry, Reginald and Ralph, followed him in government service. Henry was sheriff of London in 1187-9 and played a prominent part in the disputes which preceded the recognition of the commune in 1191. Like his brothers after him he served the crown in different

areas and in many capacities, and it is difficult to guess whether he or his father would have been more committed as sheriffs to the king or to the city, however they were appointed.⁵³ He has been called 'Henry II's man of business', and though he supplied goods to the king in 1176 and 1182, most of his recorded dealings were purchases made as the king's agent when he was in office. His brothers are not known to have acted as merchants on their own account at all. The final and typical problems about the Cornhills are that none of them is known to have been an alderman and that the extent of their family is hard to trace. We know, however, that the Cornhills were exceptional in the range of their royal service, and therefore no doubt in their links with people and causes outside London; as sheriffs their sympathies may have been less with the city than were those of other 'citizen'-sheriffs.⁵⁴ Londoners were undoubtedly a social group with communal interests, even though their common interests were probably created more by their governmental than by their economic activities. The reality of the community is suggested in Jordan Fantosme's account of the rebellion of 1173-4. He extols the loyalty of the 'barons of London' and contrasts it with the behaviour of the lord of Montfichet Castle and his allies, who are depicted as outside the city community rather than a rebellious party within it.⁵⁵

The period between 1189 and 1216 marks a new epoch in London's history, but the stages by which the city now enlarged its corporate liberties are not entirely clear. Round called one of his books after the commune of 1191, but he did not work out the politics of the episode in any coherent way, and though his discoveries about it were characteristically important his emphasis on the dramatic events of October 1191 may have been misleading. He thought that the proclamation of the commune accompanied a revolution in which the city acquired its first corporate governing body, but his contention that it had none before 1191 cannot be maintained in the face of what is now known of Henry II's dealings with the city and of the aldermen throughout. Too much of the discussion of the commune which he started seems also to have rested on a narrow and anachronistically legal definition of the word, or on a preoccupation with identifying methods of government as native or foreign. It is surely possible that the concept of a sworn commune could have passed from town to town, even across frontiers and channels, while its precise form became adapted to local conditions. The word and its derivatives may have been used loosely and emotively in the twelfth century as they are in the twentieth.

On 8 October 1191 the bell of St. Paul's summoned the citizens to meet Count John and the magnates of the realm in the chapter house, where a commune was granted to the city and all swore to maintain it so long as it should please the absent king. This climax followed debates among the Londoners whether to support John or his enemy the chancellor Longchamp in their struggle for control of the kingdom.⁵⁶ The two sides were represented by two former sheriffs, who had held office in 1187-9. Probably, as the sources suggest, they merely happened to be spokesmen for factions in national politics rather than leaders of parties in the city. There is no reason to believe that the assemblies were divided about internal policy, but only about how best to further London's interests—the commune's interests—in troubled times.⁵⁷ It must have been within a week of two of these excitements that two sheriffs accounted at Exchequer explicitly on behalf of the citizens for a farm of £300. That implies, as Tait pointed out, that they were probably appointed in 1190, not, as Round thought, when the commune was proclaimed a year later, which means that the lower farm and the formally elective shrievalty were conceded in circumstances of which we know nothing.⁵⁸ In 1189-90 the city had been under custodians who seem to have accounted for just under £300. One of them stayed in office the following year, along with one of his former subordinates, which suggests a prolonged negotiation concluded at the account of 1190. The commune itself may have been formed as early as 1189 and have been responsible for the negotiations: alderman fitz Thedmar's information and chronology for these years are shaky but he apparently thought that the first mayor was appointed in 1189-90.⁵⁹

Any suggestion of internal revolution in 1191 must presumably be based, as Round based it, on the belief that the mayor, skivins and probi homines to whom the citizens swore an oath of obedience at about this time constituted a new system of councils displacing the aldermen at the head of city affairs.⁶⁰ But if the skivins were not identical with the aldermen, then the aldermen made an unrecorded counter-revolution some time later when they reinstated themselves as a supreme council, having apparently officiated in their wards throughout and provided at least a significant proportion of the mayors and of the sheriffs, who acted on behalf of the citizens certainly in 1190-1 and from 1194, as well, probably, as in between.⁶¹ Henry fitz Ailwin, the first mayor, had been an alderman since before 1168 and his father and grandfather may have been aldermen before him. Some obscure and archaic prestige may even have attached to his house at London

Stone, where the husting seems to have met once in his father's day. Henry apparently served until his death in 1212.⁶² None of his successors equalled his term, and annual elections may have been established in principle before 1215, though some mayors went on serving for successive terms. Henry's successor was probably the son of a Londoner, but not, as has been alleged, of Henry's brother.⁶³ Of the next three mayors who served before 1218 only one is known to have been an alderman: his father had been one too. Though it is not certain that all mayors as yet had to be aldermen, the other two may have been.⁶⁴ Given the traditional and entrenched institutions of city government, therefore, it is likely that the office of mayor was superimposed on the existing structure of government without disturbing it to any noticeable degree. As a matter of practical politics it seems unlikely that the start of the commune should have been accompanied by any far-reaching displacement of the city elite. At the same time the proportion of aldermen who were merchants may well have grown as the numbers, wealth and influence of London merchants increased with the economic and demographic changes of the period. The great merchants and royal purveyors, often vintners, whom Williams has vividly described as the core of the thirteenth-century patriciate, can first be discerned in significant numbers at about this time and included two of the first five mayors, though the records before 1216 hardly suffice to show whether they were typical of the aldermanic body as a whole, or of any wider group of 'patricians', if one could define such a group.

We know that the governing class was under pressure in the years after 1191. In 1194 William fitz Osbert accused another citizen of saying that Londoners would never have any other king but the mayor of London, and while fomenting general discord, he built up a rebellious following among the poor, based on grievances about the inequitable collection of taxes and particularly the king's ransom. He was hanged, and authority, though shaken, apparently remained in the hands of the same establishment throughout.⁶⁵ Complaints about consultation, or the lack of it, probably underlay other more obscure episodes. *Probi homines* had been associated in government with the mayor and skivins in the oath of c. 1193,⁶⁶ and in 1200-1, according to the material collected for Arnold fitz Thedmar half a century later, twenty-five men were elected *de discretioribus civitatis* to advise the city along with the mayor.⁶⁷ The omission of any mention of the aldermen here is especially confusing because of the approximation between the number twenty-five and the number of aldermen, then probably twenty-four. The episode has a

close parallel a few years later which is rather better documented. In 1206 the king ordered the barons of London to have twenty-four from their more lawful, wise and discreet fellow-citizens elected to reform abuses which had been committed by default of those *qui hucusque fuerunt superiores*. The abuses were connected with justice (*iure civitatis tractando*) and the king's tallages: much money collected from the people had remained unpaid and dissensions had arisen.⁶⁸ Since the king's writ to the 'barons' presumably went to the mayor and aldermen, and since the elections were to be made by the counsel and consent of the 'barons' themselves, any theory that he had already replaced the aldermen altogether or intended to do so seems to be refuted, however suggestive the number twenty-four may be. Nor do the names of recorded aldermen seem to change suddenly at this point any more than in 1191 or 1201. How long the new council served or what it achieved is unknown. It was not until 1376 that the Common Council became a regular part of London's constitution, but throughout the thirteenth and fourteenth centuries variously and sometimes vaguely constituted *congregationes* were held, supplemented in times of stress like the 1260s by riotous mass meetings. The need to regulate this wider consultation probably contributed to the hardening of qualifications for citizenship that can be observed during that period.⁶⁹

Relations between the commune and the monarchy remained equivocal for many years after 1191. The farm remained at £300 for good and the king's return in 1194 did not discernibly interrupt London's enjoyment of its liberties. He is not recorded as either recognizing or disallowing the commune and there is no evidence except for Richard of Devizes' panicky remarks about 1191 to show that his attitude to it was notably different from John's. Though he charged the whole community £1000 for his goodwill, for his ransom (presumably in addition to large sums already raised), and for confirming their liberties in the same limited terms as his father had used,⁷⁰ he evidently sanctioned the election of sheriffs.⁷¹ The citizens, moreover, did not pay their £1000 debt until 1197, when they got another charter, perhaps in return, about weirs in the Thames. In 1199 they secured from John formal acknowledgement of the *status quo* to the extent of confirmations of the traditional liberties and of the Thames charter, together with a new charter formally granting the shrievalty at the £300 farm—but not yet the mayoralty, although the government referred to the mayor of London quite often in official documents.⁷² It seems to have been some time before John's troubles began to influence his policy towards his richest town. Debts were allowed to

accumulate on the farm account until 1206-7, when a drive to collect arrears began, prompted perhaps by the inquiry into abuses of 1206 and speeded by a concurrent eyre.⁷³ Debts going back to the 1160s were paid off in return merely for the abandonment of a recent imposition of £100 a year on which nothing had ever been paid. Any worthwhile concession had to wait until 1215 when John, bidding for support against the rebellious barons, at last formally conceded the right to have an annually elected mayor. The absence of any reference to a commune in this charter is not very important: by then even Richard of Devizes, if he were still alive, would have been used to the idea of communes and mayors.⁷⁴ The charter was issued on 9 May, and John continued to try to negotiate with the citizens until the very day before the rebels got over the half-repaired walls into the city. The chroniclers disagree about the extent of support they found there: the inclusion of the mayor among the guarantors of Magna Carta, the tenor of clause thirteen, however mutilated its final form, and the whole course of events together imply that Wendover was right in claiming that the rich—in effect the rulers of the city—favoured the opposition.⁷⁵ It has sometimes been suggested that Robert fitz Walter acted as a link between the barons of the realm and the barons of the city, but his ownership of Baynard's Castle and high claims as *procurator* of London would not *prima facie* endear him to the mayor and aldermen.⁷⁶ They were probably affected more by their memory of the royal interference in their affairs in 1206, the eyre of 1206-7, and the collection of debts in 1206-9. Similar interferences in the 1230s and 1240s were to drive the city fathers into the hostility to Henry III which fills the pages of Arnold fitz Thedmar's chronicle. Between 1215 and 1217 the succession of mayors was irregular and may testify to internal disputes,⁷⁷ but, as in 1191, there is no particular reason to suppose that these concerned internal affairs or that the subjects of the mayor and aldermen were more discontented than they were at any other time.

The conclusions to be drawn from this survey of London's government and ruling class in the twelfth century are in part both negative and tentative. The object has been as much to open or reopen questions as to answer them, because further work cannot usefully be done until some of the interpretations hitherto accepted are examined more critically. It is not possible to say whether the original fortunes of London's 'patricians' were based on urban or rural land, or on local or distant trade, or to date the time at which 'patrician' interests became predominantly commercial. It begins to look as if no clear-cut distinction between

territorial and mercantile should be postulated at all. To search for any such change or for common economic interests as the determinants of city policy or constitutional change is to oversimplify. Little as we know about the occupations of substantial London landowners in the earlier twelfth century it would be premature to conclude that none—or all—of them were concerned in commerce or industry. What took place thereafter may have been a shift not merely of economic interests but of social attitudes. This was the period when a noble class was in formation in the country at large, and indeed in western Europe, and the community of leading citizens of London may have become marked off from outsiders not merely by their own increasing involvement in trade but by hardening social attitudes and even by the development of separate sub-cultures. The community of London was moreover being defined by its own growing independence, which would harden the sense of community within the city, dividing citizens from those outside, just as it hardened the divisions between rulers and ruled within the city. It was this increase of power, and especially the control over taxes, rather than any conflict of strictly economic interests, that emphasized class distinctions within London and caused the endemic disputes of the ensuing period.

More work on the sources is needed before more definite conclusions can be reached. One preliminary suggestion may be made to clear the ground, both for London and for other towns. Discussion of the ruling class may become easier if the word 'patrician' is dropped altogether. In some of the Flemish and German towns, which had well-defined bodies of rulers, sometimes even maintaining themselves by co-option, the patriciate can have a definable meaning. Elsewhere the word begs too many questions. In London it could be a synonym for aldermen, in which case it serves no useful purpose; or it could cover the aldermen and their families—to an uncertain degree of relationship; or it could cover aldermen and whoever we choose to think were suitably associated with them. Like all labels it conveys a deceptive air of precision which discourages further attempts at analysis. If we are to make real progress in understanding the society, government and economy of earlier medieval London we must look critically both at the evidence and at the words with which we transmute it into history, and must beware of running our interpretations of the Londoners' interests and policies along the tramlines of social and political attitudes which earlier historians thought appropriate to them. As more becomes known about individual Londoners we may guess that their interests and motives will become more rather than less complex, and that attempts to fit social and economic changes into any simple

shape to fit the official records will become even more difficult.

Table 1: Sheriffs and Justiciars of London and Middlesex, 1100-54

The material in both tables is provisional. For the distinction between sheriff of Middlesex, reeve of London and other officials see p. 340; Richard de Luci (*Regesta*, iii, p. xxv) was probably justiciar of more than Lond. & Mdx.: cf. earl of Leic. in Palgrave. For sheriffs and undersheriffs see e.g. *Ramsey Cart.* ii. 61; P.R.O. E 40/14311; *H.M.C.* 62; *Materials for hist. of T. Becket*, iii. 14.

Col. 1: Dates in *italic* are covering dates, dates in roman those of actual period of office.

Col. 4 gives other royal and city offices held: †—royal office (sheriff, justiciar, chamberlain &c.) outside London; date in *italic*—some (probably *ad hoc*) service for king undertaken in that year.

Col. 5: *—property in London; †—property outside London; T—evidence of trade or industry (e.g. occupational by-name; ownership of seld &c.; purveyance of goods while not in office); ml.—money-lender (or mortgagee).

Col. 6: bro: S, fa: M, son: A &c.—his brother was sheriff, his father mayor, his son an alderman &c.

General: A—alderman; cus.—custodian sheriff; G—alderman of adulterine guild 1180; J—justiciar; jt.—debt paid jointly; jur.—juror of building assize (probably alderman); loan—made loan to king 1172-3; M—mayor; ml.—see above, col. 5; pledge—acted as pledge for sheriff of 1169-72; R—reeve of London; S—sheriff(s); sep.—debt paid separately; surv.—acted as surveyor of king's works in Lond. & Mdx.; T—see above, col. 5; W—warden of St. Giles's Hosp.

Date	Name	Office	Other office	Land & Occup.	Other inf.
1100-15	Hugh of Buckland(1)	J?	†	*†	canon d. c. 1115
1100-8, 1114-15?	Roger de Valognes(2)	J or S?		†	d. 1141-2
c. 1108, 1114-15	Leofstan(3)	R or S?	A?	*?†?	d. 1115?
1111?	Rainer the reeve(4)	R or S?			
1120-2, 1125-?	Aubrey de Vere(5)	S	†	†	d. 1141; dau. m. G. de Mandeville
1114-15? 1125	Rog. neph. of Hubert(6)	S		*†	d. by 1130; son: S
see A. de Vere	Rob. de Berquereola(7)	R?			
1113-31	William of Eynesford(8)	S	†	*	d. 1130—as monk
bef. 1128	Ralph fitz Everard(9)	S		*?	d. by 1130; son: S?
1128-9	Fulchered f. Walter(10)	S			
1128-9	Eustace(11)	S		*?	
1129-30	William Lelutre(12)	S		*?†	neph: S
	Geoffrey Bucherell(13)			*?	
	Ralph fitz Herlewin(14)			*	
	William de Balio(15)				
1135-9	Andrew Bucuinte(16)	J		*†?	
1139-41	Osbert Eightpence(17)	J?		*?†	
1141-3	Geof. de Mandeville(18)	J & S	†	*†	d. 1144
1135-52	John(19)	S			fa: S?
1135-47	Gervase of Cornhill(20)	J	S 1155-7, 1160-1†	*† ml.	fa, son: S
1143-52	Theodoric f. Derman(21)	J		*?†	
1138-54	Gilbert Prutfo(22)	S		*	
?	Gilbert [Becket?](23)	S?		*	

I. *Regesta*. i. 444, 455; ii. 730, 1180 and index; *Ramsey Cart.* i. 43, 50; *Ckron. Abingdon* (Rolls ser. 1858), ii. 117; *H.M.C.* 25. 62; P.R.O. E 40/2500; C. N. L. Brooke, 'St Paul's chapter'. *Cam. H.J.* x (1951), 124.2. *Regesta*. ii. 556.898 and index; *Ramsey Cart.* i. 43. 50; I. J. Sanders, *Eng. baronies* (1960), 12. Cf. Roger nephew of Hubert. 3. *Regesta*, ii. 898: iii. 505; *Ramsey Cart.* i. 43,50; cf. above n. 62; perhaps addressed as alderman, cf. Ordgar: *Ramsey Cart. toe. cit.* 4. *Regesta*, ii. 982 (cf. 274, castle of Ravenger?); possibly Abinsdon abbey's reeve, cf. *Essays to Tout*, 56. 5. *Regesta* ii, index: *H.T. Cart.* 12, 871, 1072: B.M. Hart. MS. 1708, f. 113; Sanders. *Eng. baronies*, 52.6. Cf. Roger de Valognes; *Pipe R.* 31 *Hen.* I, 144, 147; *Commune*, 107-8, 305; *Anc. Charters* (*Pipe R. Soc.* x), no. 40; *H.T. Cart.* 394; son Gervase of Cornhill. 7. *H.T. Cart.* 1072; cf. *H.M.C.* 31,66.8. *Ramsey Cart.* i. 61; *Domesday monachorum*, ed. Douglas. 46-7; *Regesta*, ii, index. 9. *Pipe R.* 31 *Hen.* 1, 144, 150; *H.M.C.* 61; *Essays to Tout*, 57: for son see p.342. 10. *Pipe R.* 31 *Hen.* I, 144, 148, 149: *Regesta*. ii. 1610a. It. *Regesta*. ii. 1610a; *Essays to Tout*, 58; cf. Page, 205. 12. *Pipe R.* 31 *Hen.* I, 149; cf. sheriff 1200-1: *ibid.* 146; *E.C.S.P.* 139, 143,218.13. *Pipe R.* 31 *Hen.* I, 145,146, 149; cf. Page, 240; *H.M.C.* 61; *Commune*, 101, 120; sheriff 1172-4.14.

Pipe R. 31 Hen. 1, 149; *H.M.C. 20* (Round, *G. de M.* 309-10 confuses generations); P.R.O. E 40/2214. Uncle of Gervase of Cornhill: Richardson, *Eng. Jewry*, 238-40.15 *Pipe R. 31 Hen. 1*, 149.16 *Regesta*, iii, index; *Commune*, 98,100-1, 107-12, 121; *Ramsey Cart.* i. 61; *Pipe R. 31 Hen. 1*, 145, 147; *Colchester Cart.* ii. 294; above, p. 339.17. *Regesta*, iii, index; *Materials for hist. of T. Becket*, ii. 361, iii. 14, iv. 8: *G. de M.* 374; *Commune*, 114-15,121.18. *Regesta*, iii, p. xxv. 19. *Regesta*, iii. 530; above p. 342. 20. *Regesta*. U. 24J-4,515; *Pipe R. 31 Hen. 1*,144,147; *G. de M.* 304-12; *Commune*, 111; Richardson. *Eng. Jewry*, 8, 47-8. 237-40; above p. 346.21. *Regesta*, iii. 534; *Commune*, 101.107-8, 112; *Domesday monachorum*, ed. Douglas, 62-3. 22. *H.M.C.* 62,63; *Essays to Tout*, 56; *Ramsey Cart.* i. 61; B.M. Claud. MS. D. xiii. f. 24v (as William). Prof. C. N. L. Brooke suggests perhaps father of Thomas Becket. 23. *Materials for hist. of T. Becket*, ii. 359 iii. 1-4, iv. 81; see n. 22.

Table 2: Sheriffs of London and Middlesex, 1154-1216

For the significance of method of payment of farm debts in col. 3, see p. 343. Abbreviations and conventional signs as in Table 1.

Date	Name	Debt paid	Other office	Land & Occup.	Other inf.
1154-5	John fitz Ralph(1)	1161	S 1135-52?	*?	fa: S?
1155?	Gregory(2)				
1155-7	Gervase of Cornhill(3) John fitz Ralph	sep. 1159, 1161	See Table 1 See 1151-59		
1157-9	Reiner fitz Berengar(4) Geoffrey bursarius(5) Josce vintner(6) Richard Vetulus(7) Brichtmar of Haverhill(8)	by S 1160?	S 1162-9 cus. 1174-6 surv.	* ml? T * T T * T	loan; son: S son: A; d. 1168-9 bro: S son: cus. & S
1159-60	(9)	by S 1161			
1160-1	Gervase of Cornhill	by S 1163	See Table 1		
1161-2	Ernald scutarius(10) Vitalis clerk(11)	by S 1163	S's clerk	T	
1162-9	Reiner fitz Berengar William fitz Isabel(12)	jt. 1170	See 1157-9 S 1176-7 1178-87, 1193-4	* ml.	loan; d. 1197-8
1169-72	John Bucuinte(13) Baldwin Crisp(14) David of Cornhill(15) Roger Blund(16)	sep. 1178 (note pledges)		* * * *? ml?	fa: J dau. m. S; d. 1173-4 d. 1178-9
1172-4	Ralph goldsmith Ralph vintner(17) Andrew Bukerel(18) Alard	sep. by 1176		T * T * T	pledge bro: S son: M; d. 1182-3
1174-6	Brichtmar of Haverhill Peter fitz Walter(19)	(cus.)	See 1157-9 A	*	pledge
1176-7	William fitz Isabel	no debt	See 1162-9		
1177-8	Waleran(20) John fitz Nigel(21) Michael de Valence(22)	jt. 1179	A jur.	* †? T? * *	son: S? pledge; son: S
1178-9	William fitz Isabel Ernulf Bucel(23)	by S 1180	See 1162-9	T	pledge
1179-81	William fitz Isabel Reginald le Viel(24)	jt. 1182	See 1162-9	*?	
1181-7	William fitz Isabel	1188-9	See 1162-9		
1187-9	Henry of Cornhill(25) Richard fitz Reiner(26)	sep. by 1202	†	* † T * † T ml.	fa: S; d. 1192-3 fa: S, bro: A; d. 1192
1189-90	John fitz Herlicun(27) Roger Dux(28) William of Haverhill(29)	(cus.)	A surv. A surv. S 1192-3 A G S 1190-1	* *? T?	son: S & M? fa: S
1190-1	William of Haverhill John Bucuinte(30)	sep. by 1198	See 1189-90 bailiff 1189-90	*	
1191-2	Nicholas Duket(31) Peter fitz Neuelon(32)	jt. 1193	jur. S 1196-7 surv. 1198 S 1209-10?	*	son (or sons): S
1192-3	Roger le Duc Roger fitz Alan(33)	jt. 1194	See 1189-90 jur. A M	*? †?	
1193-4	William fitz Isabel William fitz Alulf(34)	jt. 1195-6	See 1162-9	* †	
1194-5	Robert Besant Jukel(35)	jt. 1196 & bycits. 1197	A	*	
1195-6	Godard of Antioch(36) Robert fitz Durand	no debt		*	

Date	Name	Debt paid	Other office	Land & Occup.	Other inf.
1196-7	Nicholas Duket Robert Blund(37)	no debt	See 1191-2 A	*†	fa: A; bro: S
1197-8	Constantine f. Alulf(38) Robert le Bel(39)	no debt	A jur. A?	*† •	bro: S; d. 1222
1198-9	Arnold fitz Alulf(40) Richard Blund(41)	first ac. 1261	jur.	†?	bro: S fa: A; bro: S
1199-1200	Roger de Deserto(42) James alderman(43)	jt. 1207	A M	T •	fa: A?
1200-1	Simon of Aldermanbury(44) William fitz Alice(45)	jt. 1207	A	•	bro. &c. canons; m. S's dau. bros: S, & A?
1201-2	Norman Blund(46) John de Caiho(47)	jt. 1207		* T * ml.	
1202-3	Walter Brun(48) William Chamberlain(49)	jt. 1207		* T?	founder Bishopsgate Hosp.
1203-4	Thomas of Haverhill(50) Hamo Brand(51)	jt. 1207	A W jur.	*† •	fa: cus & S
1204-5	Richard of Winchester John Waleram(52)	jt. 1207 & by cits. 1208	A	† •	fa: S? See 1212-13?
1205-6	John fitz Elinand(53) Edmund fitz Gerard(54)	jt. 1207		†?	
1206-7	Henry of St. Albans(55) Serlo mercer(56)	by cits. 1208	1211, 1225 M	T * T	d. by 1235?
1207-8	William Hardell(57) Robert of Winchester(58)	no debt	1211 W M	*? T *† T	son: M
1208-9	Peter le Duc(59) Thomas alderman(60)	no debt	A? A		fa: cus. & S? fa: S?
1209-10	Peter Neuelun(61) William Blund(62)	first ac. 1235	S 1191-2? A	*† ml.	fa: S? bro: S
1210-11	Adam de Whitebi(63) Stephen le Gras(64)	no debt	A 1198 A	• •	
1211-12	Josce fitz Peter(65) John de Garlande(66)	by cits. 1214	A 1206	• •	soke-reeve
1212-13	Constantine the yr. (67) Ralph Helyland(68)	(no. ac.)	S 1217-18	ml.	See 1197-8? See 1205-6?
1213-14	Martin fitz Alice(69) Peter Bat(70)	no debt	A 1198		bros: S, & A?
1214-15	Solomon of Basing(71) Hugh of Basing(72)	no debt	M	• •	
1215-16	Andrew Neuelun(73) John Travers(74)	(no ac.)	A jur. A	* * T	fa: S; bro: S d. by 1236?

1. B. M. Harl. MS. 1708, f. 113v; St. Paul's WD 4, f. 108; WD 12, f. 6v; A. Saltman. *Theobald archbishop of Cant.* (1936), 260-1: *Lewes Chart.* 52; above p. 342.2. *Red Book of Exch.* (Rolls ser.), 658; *Pipe R.* 2-5 *Hen. II*; *C bron.* Abingdon, ii. 186 (as justiciar); *Cal. Doc. In France*, ed. J. H. Round, no. 1445. 3. Possibly justiciar: B. M. Harl. MS. 1708, f. 113v. 4. *C.A.D.* A 2025, 2176; Moore, i. 264n; *H.M.C.* 68; *Pipe R.* 2-4 *Hen. II*; Page, 244.5. *Pipe R.* 11-27 *Hen. II*; *Lewes Chart.* 49-50, 52.6. *Pipe R.* 25 *Hen. II* 11-6 John (his house). 7. *Pipe R.* 12 *Hen. II*, 131; *Commune*, 112-13; Page, 258-9: below 1179-81; above p.345.8. *Pipe R.* 10-12, 16, 24-25 *Hen. III* St. Paul's WD 4, f. 107-8: WD 12, f. 4v, 7v; P.R.O. E 40/830; Westm. Domesday, f. 367v; *H.T. Cart.* 1024.9. Beg. of ac.

missing. Sheriff possibly Gervase of Cornhill (accounted for aid and its arrears) or Humphrey Bucuinte, sheriff 1154-68, not recorded in Pipe Rolls: Palgrave. Cf. *C.A.D.* A 1684; *Pipe R.* 15-17 *Hen. II*; *Law Quart. Rev.* xlviii (1932), 415-21; Page, 237-8; below 1169-72. 10. *Pipe R.* 2-4, 12 *Hen. II*; *E.H.R.* xxviii. 225. II. *Clerkenwell Cart.* 160; *H.M.C.* 62.12. *Pipe R.* 31 *Hen. II*-10 *Ric. I*; *H.T. Cart.* index; *H.M.C.* 24; *E.C.S.P.* 302; Moore, i. 277-8; *C.A.D.* A 1641; D. & C. Cant. Lit. MS. B 16. f. 16-18, Reg. JC, f. 66v; *Chron*; *Jocelin of Brakelond*, ed. Butler (1949), 2; above n. 51. Probably not William fitz Sabeline, cf. *S.B.H. Cart.* f. 301r; *E.C.S.P.* 180n. for occupation. Page. 254 (cf. *C.A.D.* A 1641). 13. Palgrave; *Commune*, 111; *Colchester Cart.* ii. 294; *H.M.C.* 66-7; Moore, i. 132-5, cf. sheriff 1190-1; Page, 236-9. 14. *Pipe R.* 15-20 *Hen. II*; *S.B.H.* 1252; *E.C.S.P.* 139. 15. *H.T. Cart.* 361; cf. *Clerkenwell Cart.* 249-50; Moore, i. 53; *C.A.D.* A 2500, 7295. 16. *Pipe R.* 25-29 *Hen. II*; St. Paul's WD, 12, f. Iv, 4v; above n. 39. 17. *Pipe R.* 18. 32 *Hen. II*, 3-8 *Ric. I*, 2-7 *John*; Westm. Domesday, f. 486; Moore, i. 66; *Hist. Glouc.* (Rolls ser.), i. 390-1; *C.A.D.* A 2462: St. Paul's WD 4, f. 108v, 110v. 18. *Pipe R.* 29-31 *Hen. II*; Moore, i. 270-1; Page. 241; Williams, 324-5. 19. Palgrave; *Commune*, 253; *H.M.C.* 66-7; *E.H.R.* xxviii. 227; St. Paul's WD 12, f. 1-3, 5v; Cant. Reg. K, f. 67r. 20. Cf. e.g. *Pipe R.* 11 *Hen. II*, 31: *E.C.S.P.* 176; B.M. Harl. MS. 1708, f. 112; Moore, ii. 135; *C.A.D.* A 1654, 5436; Cant. Lit. MS. B 16, f. 16-17, Reg. K, f. 67r. 21. Cant. Reg. K, f. 67r; *H.M.C.* 25; *Pipe R.* 9 *John*, 52. 22. *Pipe R.* 25, 28, 32 *Hen. II*; Moore, i. 105-9; *S.B.H.* 400, 402, 427; *E.C.S.P.* 251, 295. 23. *Pipe R.* 26-31 *Hen. II*; cf. Ralph Bucel, *ibid.* 10, 19-20, 29 *Hen. II*-1 *Ric. I*. 24. *S.B.H. Cart.* f. 328, 385; cf. *S.B.H.* 1290, Moore, i. 82, 102; Page, 258. 25. *Pipe R.* 22, 28-34 *Hen. II*, 1-5 *Ric. I*; *G. de M.* 353; *Commune*, 253; Richardson, *Eng. Jewry*, 47-8, 237-40; Cant. Lit. MS. B 16, f. 16r, 17v; Moore, i. 326-7; *S.B.H. Cart.* f. 379; above p. 347. 26. *Pipe R.* 28 *Hen. II*-5 *Ric. I*; *Rot. Cur. Reg.* 1194-9 (Rec. Com.), i, p. cxv; Moore, i. 88-9; *C.A.D.* A 5438, 5929, 6461; P.R.O. E42/312. 11. *Pipe R.* 3-9 *Ric. I*; Westm. Domesday f. 438-4; *C.A.D.* A 7840; *H.M.C.* 27; *S.B.H.* 1252. Cf. Moore, i. 355-6; *Liber de A.L.* 5; *Eyre of Lond.* 220 (his son?). 28. *Pipe R.* 27 *Hen. II*, 3 *Ric. I*; *E.C.S.P.* index; P.R.O. E 40/2493, E 42/146. Cf. mayor 1227-31 (his son?): Williams, 57; St. Paul's A 20/ 1492; Westm. Domesday, f. 483-4. Cf. *H.T. Cart.* 222, 224. 29. *H.M.C.* 21, 22, 27; *E.C.S.P.* 121; *Clerkenwell Cart.* 243; Moore index; Westm. Domesday f. 368; P.R.O. E 40/2507. Page, 264-5 (cf. Williams, 55) confuses him variously: St. Paul's A 20/1528 30. *Pipe R.* 2-3 *Ric. I*, 2-16 *John*; *E.H.R.* xvii. 723; *E.C.S.P.* index; Moore, index; B.M. Add. Ch. 1046; above, 1169-72. 31. *Pipe R.* 10 *Ric. I*, 3 *John*; St. Paul's WD 12, f. iv, 3v, 7v; *C.A.D.* A

1677, 2500. 32. *H.M.C.* 13; *Clerkenwell Cart*, index. 33. *S.B.H.* 157; *Pipe R.* 29-33 *Hen. II*; *Clerkenwell Cart.* 171; *Cant. Reg. K*, f. 68r; *E.H.R.* xvii. 505, 506. Mayor (c. Oct. 1212—after Mic. 1214), cf. *Liber de A.L.* 3, 175; *C.A.D.* A 2562. Relationships suggested (*G. de M.* 311, Page, 243, 252) lack evidence. 34 *Cant. Reg. K*, f. 67r, *Lit. MS. B* 16, f. 16-17; *E.C.S.P.* 329-35; *H.T. Cart.* 231: probably not bro. of Constantine: *H.M.C.* 21; Moore, i. 300-1. 35. *Liber de A.L.* 2; *H.T. Cart.* 1073; *Chertsey Cart*, ii (*Surr. Rec. Soc.* 1958), nos. 1215-17; *E.C.S.P.* 107, 115. 36. *C.A.D.* A 2385. 37. *Pipe R.* 9-10 *Ric.* 1,2-8,11-12,16 *John*; *Clerkenwell Cart.* 288, p. 280; Moore, i. 325-7; *C.A.D.* A 44, 7256, 7311, 7822. Cf. Page, 262-3 with *C.A.D.* A 2562, 2624; *H.T. Cart.* 1025; *E.C.S.P.* 151. 38. *E.H.R.* xvii. 483-4, 506; *Clerkenwell Cart*, index; *E.C.S.P.* index; *Pipe R.* 14, 16 *John*; *S.B.H.* 469, 754; Wendover, *Flores Hist.* (Rolls ser.), ii. 265; cf. n. 67. 39. *Cant. Reg. K*, f. 66v; cf. Robert pulcher: Palgrave. 40. Or Arnulf fitz Alulf, Arnold Rufus: *E.H.R.* xvii. 506-7; *E.C.S.P.* index; Moore, i. 302; *H.M.C.* 25, 51, 353. 41. *Liber de A.L.* 2; *P.R.O.* E 42/444; cf. *C.A.D.* A 1501-2, 1951-2, 2718; *E.C.S.P.* 208; Page, 263. 42. *Pipe R.* 8 *John*, 58. 43. *Liber de A.L.* 4; *S.B.H. Cart.* f. 180-1; *C.A.D.* A 7821; cf. *H.T. Cart.* 1073. 44. St. Paul's A 19/295; *E.C.S.P.* 139, 143; *Cam. H.J.* x. 123n; *Pipe R.* 2-10 *John*. Cf. [Table 1](#), n. 12. 45. *E.C.S.P.* index; *C.A.D.* A 2429; cf. Page, 239. 46. *Pipe R.* 5-10 *John*; *H.M.C.* 14; *C.A.D.* A 1502,2124,2718; *S.B.H.* 1276; *Westm. Domesday* f. 483. 47. *H.M.C.* 14, 29; *Pipe R.* 11-12 *John*; cf. *H.T. Cart.* 1073. 48. Dugdale, *Monasticon* (1817-30 edn.), vi. 624; *H.M.C.* 4; *H.T. Cart.* 204,993; *C.A.D.* A 2722; *E.H.R.* xvii. 484-5; *P.R.O.* E 40/2062, 2722; St Paul's WD 12, f. 3v; *Westm.* 13973. 49. Unidentifiable. 50. *Clerkenwell Cart.* 244-5, 271; *Patent Rolls* 1216-25, 265; *Cal. Ch. R.* 1226-57, 202; *Pipe R.* 5-16 *John*; E. Williams, *Early Holborn* (1927), 1642; *C.A.D.* A 2180, 2484, 2502; *E.C.S.P.* 121, 141; *H.T. Cart.* 442, 1028; *S.B.H. Cart.* f. 246. 51. *H.T. Cart.* 1028; *Pipe R.* 4 *John*. 52. Beaven, *Aldermen*, i. 366; *C.A.D.* A 1809, 2314. 53. Or Heliland: *Liber de A.L.* 3; *S.B.H. Cart.* f. 298v; Williams, 230, 339. 54. Or de la Hale: *Liber de A.L.* 3; *Pipe R.* 8 *John*, 59. 55. *Pipe R.* 10-16 *John*; *Patent R.* 1216-25, 467, 510; T. F. Tout, *Chap, in med. admin, hist A* 236. 56. *H.T. Cart*, index; *Liber de A.L.* 4; *Westm. Domesday* f. 369; *Cal. Ch. R.* 1226-57, 201-2; Williams, 54. 57. Mayor (after Mic. 1215-Eas. 1217): *Liber de A.L.* 4; *Pipe R.* 8-16 *John*; Williams, *Early Holborn*, 1642; Moore, i. 322; *Rot. Lit. CI.* 1224-7, 181; *Patent R.* 1216-25, index; Williams, index. 58. *Kal. of abbot Samson* (Camden ser. 1954), no. 156; *S.B.H.* 754; *Pipe R.* 8-14 *John*. 59. St. Paul's A 20/1492; *Westm. Domesday* f. 483-4; as Peter fitz Roger, 1228?: Beaven, *Aldermen*, i. 366. 60. As Thomas fitz Nigel: *Liber de A.L.* 3; or fitz John

fitz Nigel: Moore, i. 120, 122; *E.C.S.P.* index; Westm. 13763. 61. As Peter the younger: *Liber de A.L.* 3; *Pipe R.* 12 John, 181; see sheriff 1192-3. 62. *Pipe R.* 9 Ric. I, 6, 9, 16 John; *Red Book of Exch.* 577; *H.T. Cart.* 855; *Clerkenwell Cart.* 223.63. *Pipe R.* 10-11 John; St. Paul's A 17/1315, WD 4, f. 108v. 64. *Pipe R.* 10 Ric. I; Beaven, *Aldermen*, i. 366; *H.T. Cart.* 613; P.R.O. E 40/2119; St. Paul's WD 4, f. 110, WD. 12, f. 3v. 65. Moore, index; *E.C.S.P.* index; Beaven, *Aldermen*, i. 366; *H.M.C.* 11. 66. *Pipe R.* 4. Ric. I, 8-13 John; St. Paul's WD 4, f. 108, WD 12, f. 2v, 7r; *H.T. Cart.* 46. 67. *Liber de A.L.* 3; a, Constantine fitz Alulf in P.R.O. E 40/2562; son of sheriff 1197-8?: Cant. Reg. K, f. 67r; Moore, i. 320n. 68. *Liber de A.L.* 3; P.R.O. E 40/730; see sheriff 1205-6. 69. *E.C.S.P.* 295; *H.T. Cart.* 442. 70. *Pipe R.* 10 Ric. I, 182; Williams, 75, 205-6. 71. *Liber de A.L.* 4; Moore, index; *H.T. Cart.* 467; *C.A.D.* A 1614, 1957. Cf. Page, 265, Williams, 324. 72. *Clerkenwell Cart.* 275; cf. Page, 265. 73. *Liber de A.L.* 4; *C.A.D.A.* 1499; *Pipe R.* 9-11 John; *H.T. Cart.* 1023; *Clerkenwell Cart.* index; *E.H.R.* xvii. 506. 74. *Liber de A.L.* 4; Beaven, *Aldermen*, 366; *H.T. Cart.* index; St. Paul's WD 4, f. 108v 110; *Patent R.* 1216-32 index; *Close R.* 1227-31, 291

AFTERTHOUGHTS

- p. 339: On the folkmoot, see below, addition to p. 350. On the absence of evidence for the collective action of the aldermen I conceded too much to Round. Even before I worked out what I said in *Kingdoms and Communities*, 167-8 or in chapter VIII in this volume, 1 should have paid more attention to H.M. Cam, *Liberties and Communities in medieval England* (London, 1963 3dn.), 49-64.
- p. 339, n. 6: On the Guildhall, Gerald of Wales's reference (*Opera* (Rolls series), i v. 404), to it as the public hall named from drinking sessions (*aula publica quae apotorum conventu nomen accepit*) is surely not 'echoing a joke as suggested by C.N.L. Brooke *London. 800-1216* (London, 1975), 280. Drinking and feasting were regarded as 'defining features' of guilds (G. Rosser, 'Going to the fraternity feast', *Journal of British Studies*, 33 (1994), 430-46, at 431). They must have been an important purpose in building early guildhalls. On the barons of London, below, addition to n. 36.
- p. 339, n. 12: Also, C. Clark, 'Women's names in post-conquest England', *Speculum*, 53(1978), 223-51.
- p. 340 and n. 17: C.W. Hollister, 'The misfortunes of the Mandevilles', *History*, 58 (1973), 18-28, makes the first Geoffrey de Mandeville's tenure together of

the offices of portreeve, sheriff, and constable of the Tower look virtually certain. In 'London's first charter of liberties: is it genuine?', *Journal of Medieval History*, 6 (1980), 289-306, he makes the £300 farm look more likely than I allowed.

- pp. 341-2: Arguments against Henry's issue of the charter in C.N.L. Brooke, G. Keir, and S. Reynolds, 'Henry I's charter for the city of London', *Journal of the Society of Archivists*, 4 (1973), 558-78, are contested (to my mind pretty convincingly) by C.W. Hollister ('London's first charter of liberties': see previous note). J.A. Green, *The government of England under Henry I* (Cambridge, 1986), 67-9, remains uncertain.
- p. 342: On the London communes: Reynolds, *Introduction to the history of English medieval towns* (Oxford, 1977), 105-8, and *Kingdoms and communities* (Oxford, 1984), 168-82. On Geoffrey de Mandeville: J.O. Prestwich, 'The treason of Geoffrey de Mandeville', *Eng. Hist. Review*, 103 (1988), 283-12.
- p. 345, n. 36: A charter of 1139x58 printed in G.O. C[okayne], *Complete Peerage*, ed. V. Gibbs, iv (London, 1916), 767 (viii) includes among its witnesses some of the barons of London (*de baronibus de Londinio*). Presumably they were leaders in the husting and some were aldermen.
- pp. 345, 346, 352-3: On 'patriciates': Reynolds, *English medieval towns*, 78-9, and *Kingdoms and communities*, 204-6, 208-10.
- p. 349: Annual elections of the mayor: a list of demands to be made, apparently to King John, includes a mayor to be elected annually in the folkmoot: Bateson, 'London municipal collection' (see n. 2), 726.
- p. 350: *Congregationes* and wider consultation: the city's rulers still had some use for the folkmoot in the early thirteenth century: see previous note.
- p. 354: This table should be corrected from J.A. Green, *English sheriffs to 1154* (Public Record Office Handbooks no. 24, 1990), 56-9.
- p. 356, note 9: add Rannulf the sheriff: *Colchester Cartulary*, ii. 294.

¹ Miss B. F. Harvey and Mr. T. H. Aston have kindly read and criticized earlier drafts of this paper, and the Editor has helped much in later stages. Like others who work on London, I also owe much to Mr. W. Kellaway. Mrs. G. Keir has collaborated with me in indexing twelfth-century Londoners, providing much material. For this I owe thanks not only to her but also to Professor C. N. L. Brooke and to the Corporation of the City of London who have made her services available to Professor Brooke.

² For important contributions to the subject see W. Stubbs, *Constitutional History of England* (1874), i. 404-7, 423, 629-32; J. H. Round, *Geoffrey de Mandeville* (1892), hereafter cited as *G. de M.*, and *The Commune of London* (1899), cited as *Commune*; W. J. Corbett, review of *Commune*, *Eng. Hist. Rev.* xvi (1901), 765-71; M. Bateson, 'A London municipal collection of the reign of John', *Eng. Hist. Rev.* xvii (1902),

480–511, 707–30; F. Liebermann, *Die Gesetze der Angelsachsen* (1903–16), cited as *Gesetze*; G. B. Adams, ‘London and the commune’, *Eng. Hist. Rev.* xix (1904), 702–6; Ch. Petit-Dutaillis, *Studies supplementary to Stubbs*, i. (1908), 92–106; W. Page, *London: its origin and early development* (1923), cited as Page; H. W. C. Davis, ‘The London lands of St. Paul’s, 1066–1135’, in *Essays presented to T. F. Tout* (1925), 45–60, cited as *Essays to Tout*; J. Tait, *The medieval English borough* (1936), cited as Tait; J. H. Thomas, introductions to *Calendar of early mayor’s court rolls* (1924) and *Calendars of plea and memoranda rolls* (1926–43) cited as *Cal. E.M.C.R.* and *Cal. P. & M.R.*; F. M. Stenton, *Norman London* (Hist. Assoc. second edn. 1934, reprinted without map, etc., but with alterations, in *Social life in Early Eng.*, ed. G. Barraclough, (1960), cited as Stenton (1934) and Stenton (1960); H. G. Richardson and G. O. Sayles, *Governance of medieval England* (1963), 34–9; G. Williams, *Medieval London; from commune to capital* (1963), cited as Williams.

³ Among sources cited here are: *Cat. of one. deeds in P.R.O.*, cited as C.A.D.; Dean and Chapter of Canterbury MSS., as Cant.; *Cart. of St. Mary Clerkenwell* (R. Hist. Soc. Camden ser. 1949), as *Clerkenwell Cart.*; *Cartularium S. Johannis mon. Colchester* (Roxburghe Club, 1897), as *Colchester Cart.*; *Early charters of St. Paul’s* (R. Hist. Soc. Camden series 1939), as *E.C.S.P.*; Hist. MSS. Com. 9th Rep. pt. 1, app. (1883), as *H.M.C.*; *Cart. of Holy Trin. Aldgate* (Lond. Rec. Soc. 1971), as *H.T. Cart.*; *Liber de antiquis legibus* (Camden Soc. 1848), as *Liber de A.L.*; *Chart. of Lewes priory, suppl.* Wilts &c. (Suss. Rec. Soc. 1943), as *Lewes Chart.*; *London eyre, 1244* (Lond. Rec. Soc. 1970), as *London eyre*; *Munimenta Gildhallae Lond.* (Rolls series), as M.G.L.; N. Moore, *Hist. of St. Bartholomew’s Hosp.* (1918), as Moore; F. Palgrave, *Rise and progress of Eng. commonwealth* (1832), ii. pp. clxxxi–clxxxiii, as Palgrave; *Pipe Rolls* (all published by Pipe Roll Soc. except 2–4 Henry II and 1 Ric. I, published by J. Hunter, 1833, 1840); *Cart. mon. de Rameseia* (Rolls series), cited as *Ramsey Cart.*; *Regesta regum Anglo-Normannorum*, ed. H. W. C. Davis and others (1913–1968), as *Regesta*; St. Bartholomew’s Hosp. MSS. as S.B.H.; St. Paul’s MSS. as St. Paul’s; Westminster Abbey MSS. as Westm.

⁴ Though see A. B. Hibbert, ‘The origins of the medieval town patriciate’, *Past and Present* iii (1953), 23; Williams 52–66

⁵ Stenton (1960), 198; *Gesetze*, i. 232–6; E.H.R. xvii. 499; William of Malmesbury, *Gesta Pontificum* (Rolls series), 140 (written by 1125); William fitz Stephen’s account, translated, with an analysis of the MSS. in Stenton (1934), probably relates best to 1170–83.

⁶ Tait, 41, 62–63; *Cal. E.M.C.R.* pp. x–xiii; *Gesetze*, i. 657. For the Guildhall cf. Stenton (1960), 188–9; *Ramsey Cart.* i. 61. For the sheriff’s court see *Cal. E.M.C.R.*, pp. xiv–xv, perhaps anticipating clearly defined courts. For the folkmoot, *E.H.R.* xvii. 502–3.

⁷ *Domesday Monachorum*, ed. D. C. Douglas (1944), 59; note also *custodia pontis*, *loc. cit.*; *Cal. P. & M.R. 1413–37*, pp. xxxv–xxxvii; *Regesta*, ii, no. 1843. For the use of *senator* see also B.M. Harl. MS. 1708, f. 113. No aldermen as such are named in *Ramsey Cart.* i, no. 61, but five head the list of citizens present at the plea of 1156–68; Palgrave.

⁸ *Essays to Tout*, 47; G. C. Brooke, *Catal. of Eng. coins in Brit. Mus.: Norman kings* (1916), ii. 287, 297, 325; J. Le Neve, *Fasti Eccl. Angl. 1066–1300*, i, ed. D. Greenway (1968), 74.

⁹ See e.g. *Essays to Tout*, 48; Page, 180, 254; E. Ekwall, *Early London personal names* (1947), 101.

¹⁰ *Pipe Roll 31 Henry I*, 144; see Leofstan the domesman, below, n. 62. *Domesday Monachorum*, 60–3.

¹¹ For writs addressed to the barons of London, see *Regesta*, i–iii; in some cases citizens are mentioned separately. See Tait, 256–62.

¹² Ekwall, *op. cit.*, 98–100; *G. de M.* 304–12, though see Table 1 (Ralph fitz Herlewin). Cf. Stenton (1960), 193–4.

¹³ The Bucuintes’ Italian origin goes back to Stubbs (*Const. Hist.*, i (1874), 631), the Buckerels’ apparently to Page, 239–40. See also Williams, 50, 324–5. It is not clear to me that either *Bucca uncta* or *Bucherell* need be Italian. For early references to each see Table 1 (Geoffrey Bucherell) and *Pipe Roll 31 Hen. I*, 145,

147, 149.

¹⁴ H. G. Richardson, *Eng. Jewry under the Angevin kings* (1960), 1–8, 25.

¹⁵ *G. de M.* 151, 347–59; see Table 1.

¹⁶ *Pipe Roll 31 Hen. I*, 144: Fulchered fitz Walter's account.

¹⁷ *Regesta*, iii, nos. 275–6. Round (*G. de M.* 37, 439) thought that the Tower might also have been held by the sheriff but it was certainly held separately later (*Regesta*, iii, no. 506) and the chief evidence, apart from his grandson's claim, for Geoffrey being sheriff is his identification with Gosfrith the portreeve (though cf. *Regesta*, ii, no. 661). See also Richardson and Sayles, *op. cit.*, 24n.

¹⁸ E.g. *Regesta*, ii, nos. 769; 532; 1377 (and cf. 898?); 760, 898 (cf. 1524). For the chamberlains see W. Kellaway, 'The coroner in medieval London', in *Studies in London history*, ed. A. E. J. Hollaender and W. Kellaway (1969), 76–7.

¹⁹ Stenton (1960), 189–90; cf. F. Harmer, *Anglo-Saxon writs* (1952), 233–4.

²⁰ J. S. P. Tatlock, 'The date of Henry I's charter to London', *Speculum*, xi (1936), 461–9; cf. Page, 81, 206–7.

²¹ *G. de M.* 362–4. But see *Pipe Roll 31 Hen. I*, 32, where a baronial official fines with the king to retire. I owe this reference to Mrs. Judith Green.

²² See the forthcoming edition by Professor C. N. L. Brooke, Mrs. G. Keir, and myself in *Journal of Soc. of Archivists*. For the text see H. G. Richardson, 'Henry I's charter to London', *E.H.R.* xlii (1927), 80–7 and *Gesetze*, i. 524–6.

²³ *Gesta Stephani*, ed. Potter (1955), 3–4, 80, 81; William of Malmesbury, *Historia Novella*, ed. Potter (1955), 54–7; *G. de M.* 116, 247–9; cf. R. H. C. Davis, *King Stephen* (1967), 58; M. McKisack, 'London and the succession to the crown during the Middle Ages' in *Studies presented to F. M. Powicke* (1948), 76–89; Stenton (1960), 196–7. For overseas communes, see F. Petri in *Studien zu den Anfängen des europäischen Stadtwesens*, ed. Th. Mayer (Vorträge und Forschungen, iv. 1958), 227–95; A. Vermeesch, *Essai sur les origines et la signification de la commune* (Études pres. à la comm. internat. pour l'hist. des assemblés d'états, xxx. 1966).

²⁴ *G. de M.* 37–8; Orderic Vitalis, *Hist. Ecclesiastica*, ed. A. Le Prévost (Soc. de l'hist de France, 1838–55), iv. 108.

²⁵ *Regesta*, iii, p. xxv; *G. de M.* 306; see Table 1.

²⁶ Tait, 163; Williams, 2.

²⁷ I hope to publish soon a table showing the annual total of the farm and actual payments both on the farm account and of aids, etc., for 1154–1216.

²⁸ City of London Rec. Off., charters 3a, 3b, printed in Page, 277–8, and transl. in *Eng. Hist. Docs.* ii, no. 271.

²⁹ *Recueil des actes de Henri II*, ed. L. Delisle and E. Berger (1916–27), i. 302; ii. 50–1, 82–3; Richard of Devizes, *Chronicle*, ed. Appleby (1963), 49; Tait, 176–7.

³⁰ In 1191 and from 1195 the standard opening of the Pipe Roll accounts is *Cives Lond' A.B. et CD. pro eis reddunt compotum de...* For the sheriffs, see Table 2.

³¹ See Table 2. H. G. Richardson and G. O. Sayles, *op. cit.*, 36n, say the citizens were responsible for the farm 1157–63. 1163 seems an unlikely date for a change since there was no change of sheriff then, and without that a change in conditions of service seems difficult to detect.

³² *Pipe Roll 19 Henry II*, 187–9.

³³ Ralph de Diceto, *Opera Historica* (Roll series) i. 304; *Gesta Henrici* &c. (Rolls series) i. 72;

Chronicles of Stephen &c. (Rolls series), iii. 364.

³⁴ *Commune*, 112–13, 232; Tait, 167–8; cf. *Chronicles of Stephen &c.* iii. 280–2, 338, 364; *Gesta Henrici &c.* i. 156–7.

³⁵ The aid of 1167–8 *assisum fuit per wardas civitatis et postea concessum per justicias*: *Pipe Roll 30 Henry II*, 139. Its accounts were rendered separately by the citizens from 1180, those of the other levies being consolidated.

³⁶ Palgrave: plea in husting, 1156–68. For the date see D. Sammarthanas, *Gallia Christiana*, ed. P. Piolin (1874) xi. 424 (abbot William, 1156–79) and the earl of Leicester's death, 1168. For the sheriff, see Table 2, n. 9.

³⁷ There seem to be no lists between those of c. 1130 (*Essays to Tout*, 47) and 1228 (P.R.O., E 372/72, rot. 12; inaccurate transcript in A. B. Beaven, *Aldermen of city of London* (cited as Beaven, *Aldermen*), i (1908), 366). My information comes mostly from deeds and cartularies and is contained in an index compiled jointly by Mrs. G. Keir and myself.

³⁸ See e.g. below n. 62 and Table 2, nn. 38, 45, 69.

³⁹ Page, 258–64; Williams, 75; *Commune* 112–13; *Pipe Roll 9 Ric. I*, 166; cf. Moore, i. 352.

⁴⁰ Williams, 75, 318, *et passim*. For the twelfth century Williams relies on Page's genealogies, treating Page's sometimes tentative guesses as established fact. I have not found the source for his early twelfth-century alderman 'of the Viel family': Williams, 74–5; cf. Page, 258. I have not found any Buckerel or Bucuinte aldermen before 1220.

⁴¹ See e.g. *Pipe Rolls 19–20, 26–27 Henry II, 2 Ric. I–10 John*; Moore, i. 66, 73–4; E.C.S.P. nos. 143–251.

⁴² *Liber de A.L.* 238–9.

⁴³ *Cal. P. & M.R. 1364–81*, PP. xxiv–xxvi.

⁴⁴ *Materials for hist. of T. Becket* (Rolls series), ii. 359.

⁴⁵ *H.T. Cart.* p. xviii; Richardson, *Eng. Jewry*, 47–8 (property development), and cf. in *Law Quart. Rev.* xlviii (1932), 415–21 (money-raising by St. Paul's).

⁴⁶ For the later middle ages cf. S. L. Thrupp, *The Merchant class of medieval London* (1962 edn.), 118–30.

⁴⁷ *H.T. Cart.* 270; *Rot. Cur. Regis* 1194–9 (Record Com.), after p. cxv; *Rot. Litt. Claus.* 1204–24 (Record Com.), 124, 127, 138, 187; *Pipe Rolls 12–13 Henry II, 10 Ric. I, 2–6, 8–14 John*; his two fees in Kent and two held of the honour of Peverel were perhaps the same: *Domesday Monachorum*, 105; *Liber de A.L.* p. xiii; J. Stow, *Survey of London*, ed. C. L. Kingsford (1908), i. 224; ii. 315.

⁴⁸ Page, 147; *Commune*, 253; Tout (in *Dict. Nat. Biog.* vii. 219) identified the Robert of 1215 with a Robert son of Walter trading in 1207: *Rot. Lift. Pat.* (Record Com.) i. 73b.

⁴⁹ See especially *G. de M.* 304–12; *Commune*, 107–8; Powell, 'Eng. admin, families of 12th and 13th cents.' (unpublished Oxford B. Litt. thesis, 1952); Richardson, *Eng. Jewry*, 47–8. For Oervase and Henry of Cornhill, see Tables 1 and 2.

⁵⁰ *Chronicles of Stephen &c.* (Rolls series), iii. 364.

⁵¹ H. Jenkinson, 'William Cade', *E.H.R.* xxviii (1913), 214, 217, 227, and cf. 522–7, 730–2. His debt to Cade seems to have been owed jointly with William fitz Isabel, probably in an official capacity: P.R.O. E 163/1B.

⁵² *G. de M.* 311, though cf. 304.

⁵³ See I. J. Sanders, *Eng. baronies* (1960), 143.

⁵⁴ Note Gervase's activities as sheriff of Surrey (*E.H.R.* xvii. 485–6); Ralph's pledges in 1197 (*Pipe Roll 9 Ric. I*, 166–7); and the younger Reginald's activities in 1215–17: Powell, *op. cit.* 52–3, 133.

⁵⁵ *Chronicles of Stephen &c.* iii. 280–2, 338, 362–4.

⁵⁶ Diceto, *op. cit.*, 99–100; Roger of Howden, *Chronica* (Rolls series) iii. 141; Richard of Devizes. *Chronicle*, ed. Appleby (1963), 49; Giraldus Cambrensis, *Opera* (Rolls series) iv. 396, 404–5.

⁵⁷ Tait, 182; cf. Page, 107–11.

⁵⁸ Tait, 181. A Council was held at Westminster (or London) in October 1190: Diceto, *op. cit.*, ii. 85; *Chronicles of Stephen &c.* i. 331; *Gesta Henrici &c.* ii. 101; Giraldus Cambrensis, *op. cit.*, iv. 396, 404–5. In 1244 it was said that Richard I had granted the shrievalty by charter: *London eyre*, no. 486, and see *Chronicles of Edward I and II* (Rolls series), i. 14. City officials had no such charter in 1212–14: *Commune*, 256. Richardson and Sayles (*Governance of Medieval Eng.*, 36n) rightly find great difficulty in the statement that Earl William de Mandeville had custody of London for 30 days in 1190–1: the entries they cite suggest to me that he may have had custody only of the Tower; perhaps the allowance claimed by the citizens related to 1189, though even so it remains mysterious.

⁵⁹ *Liber de A.L.* 1–4, 175; see N. Ker, *Medieval MSS. in British libraries, I: London* (1969), 22–7. For Round's views see 'The first mayor of London', *The Academy*, 1887 pt. 2), p. 320; *Commune*, 225. See also P.R.O. E 40/1882; Ch. Petit-Dutaillis, *Studies supplementary to Stubbs* (1968 edn.), 99; Williams, 4–5.

⁶⁰ Cf. W. J. Corbett, in *E.H.R.* xvi. 765–71; M. Bateson in *E.H.R.* xvii. 507–8; Petit-Dutaillis, *Studies supplementary to Stubbs* (1968 edn.), 97–100; Tait, 250–6, 265.

⁶¹ See Table 2, though cf. Tait, 182n. For later aldermanic power, see Williams, 26–49, *et passim*. The apparent increase of aldermen-sheriffs is probably due to improvement of sources.

⁶² J. H. Round, 'The first mayor of London', *The Antiquary*, xv (1887), 107–11; for his grandfather, perhaps Leofstan 'domesman', see Table 1; *Flores Hist.* (Rolls series), ii. 45; C.A.D. A 2507; *Pipe Rolls 11–13 Henry II*; *H.T. Cart.* nos. 1005n, 1072. For Henry's death; see *Rot. Lift. Claus. 1204–24* (Record Com.), 124, 127; *M.G.L.* ii. 88; Glasgow Univ. Libr., Hunterian MS. U.2.6, f. 82 (consulted for me by Dr. M. T. Clanchy).

⁶³ Page, 243, 252; Williams, 5; he was described by his father's name.

⁶⁴ *Liber de A.L.* 3–4; Roger le Due (mayor 1227–31) was not apparently an alderman in 1228 and 1230: P.R.O. E 372/72, rot. 12; *Pipe Roll 14 Henry III*, 108–9.

⁶⁵ *Rot. Cur. Reg. 1194–9*, i. 69, 95; *Chronicles of Stephen &c.* ii. 466–73; Howden, *op. cit.*, iv. 5–6; Diceto, *op. cit.*, ii. 143; Gervase of Canterbury, *Opera historica* (Rolls series) i. 532–3; *Chancellor's Roll 8 Ric. I*, 296.

⁶⁶ *Commune*, 235–6: 1193, Round's date, presumably derives from the king's absence in Germany, but cf. *Liber de A.L.* 1–2; from the London end the different stages of his absence may have been easily confused.

⁶⁷ *Liber de A.L.* 2; Tait, 267.

⁶⁸ Text in Page, 282–3. Cf. A. H. Thomas, 'Recent contributions to London Hist.' *History*, ix (1924), 97–8; Tait, 268–70.

⁶⁹ Cf. *Liber de A.L.* 238–9; *E.H.R.* xvii. 711–20; *London eyre*, no. 297; Tait, 258–9; Williams, 43–5.

⁷⁰ *Pipe Roll 6 Ric. I*, 182 (and see p. 175); *M.G.L.* ii. 248–9.

⁷¹ See above, n. 61.

⁷² Rymer, *Foedera* (1816–30 edn.), i. 67; *Rot. Chart.* (Record Com.) i (1), pp. xl, 60; *Pipe Rolls 2–12 John*, index sub London; Round in *The Academy*, 1887 (pt. 2), 320.

⁷³ *Rot. de Oblatis et Finibus* (Record Com.), 11; *Pipe Rolls 2–11 John*; for the eyre see *Pipe Roll 8*

John, p. xxii (misdated in *Liber de A.L.* 3).

⁷⁴ *Rot. Chart*, i (1), 207; see *Pipe Rolls 9 Ric. I*, pp. xv. 73, 150; *Patent R. 1216–25*, 303; Tait, 234–56.

⁷⁵ *Rot. Litt. Pat.* (Record Com.), 136, 137; *Memoranda R. 10 John &c.* (Pipe Roll Soc. 1955), 132, 135; Roger Wendover, *Flores Hist.* (Rolls series) ii. 116–18; Walter of Coventry, *Memoriale* (Rolls series), ii. 220; Ralph of Coggeshall, *Chronicon* (Rolls series), 171.

⁷⁶ See J. C. Holt, *Magna Carta* (1965), 48; Stenton (1960), 184–5; authority over the river may have been another link or matter for dispute: *E.H.R.* xvii. 485–6.

⁷⁷ *Liber de A.L.* 3–4.

X

The Farm and Taxation of London, 1154-1216

THE pipe rolls are the oldest series of English government records, running, after one chance survival of 1130, in almost unbroken series from 1155 to 1832.¹ Year by year they record the accounts rendered at the exchequer by the king's sheriffs, and for the twelfth century, before the subsidiary exchequer series and the chancery enrolments begin, they are a prime source for the history of the royal government. All the rolls of the Angevin kings have been published and they have been much used, though perhaps more for their administrative and general information than for their figures.² It is not easy to use the rolls statistically: past attempts to construct totals of royal revenue from them foundered because the rolls do not include, and cannot yield, the right information. More conservative estimates of fixed traditional items of revenue, or of the revenue from particular taxes, have sometimes failed to distinguish adequately between sums demanded and sums paid.³ The labour of calculation—at least until mechanical means came within the reach of historians—has no doubt seemed too great for conclusions that might be only a meaningless misinterpretation of the sources. The result, however, is that some of the basic data, like the levels of the 'shire farms', remain uncertain. This is particularly frustrating in the case of London, where successive historians have made varying calculations about the farm and have generally connected the degree of royal extortion inversely with the degree of royal generosity in granting rights of self-government to the citizens.⁴ Since the stages by which the City gained its measure of independence are themselves uncertain, the uncertainties about its financial relations with the central government reduce the whole argument to a quagmire of guesses and assumptions. The purpose of the accompanying tables is to lay firmer foundations for discussion, by presenting such of the relevant information as can be tabulated in a form which enables us to see in outline the fiscal dealings of the Angevin kings with the greatest town of their dominions.

In order to make the tables and their limitations clear it is necessary to say something about the methods of accounting in the twelfth-century exchequer. The pipe roll of 1130 shows the system already in operation very much as it was later revived by Henry II after the troubles of Stephen's reign; though some changes were made during our period, major reorganizations did not come to fruition until the reign of Henry III.⁵ The pipe rolls record the accounts rendered at exchequer each Easter and Michaelmas by the sheriffs of the counties and a few other royal servants who might be summoned there too. The sheriffs were the government's maids of all work in the counties and much money passed through their hands. Until the development of new forms of taxation during the thirteenth century they were the chief collectors of money. Along with other royal servants they spent a good deal locally on building and maintaining royal properties and on government services in general, so that there was much scope for corruption of different kinds and, incidentally, net and gross income became inextricably confused. The main purpose of the account, however, was not to show how great the king's income was or how it related to expenditure, but to supervise and control the accountants—the sheriffs—and make sure that they did not embezzle money. Some money in any case did not pass through the sheriffs' hands at all and so might not appear in the exchequer accounts but was paid straight into the king's household, sometimes leaving no trace on the pipe roll.⁶ The most striking example of all for our purposes is probably the ransom of Richard I, for which substantial contributions to the very large sum raised were surely made from London: yet the only record on the London account of the 1193 roll concerned the expense of sending out summonses to pay, of collecting the treasure at St. Paul's, and of entertaining the imperial agents who came to collect it.⁷ Another weakness of the record from our point of view is that payments might have been made some time before they were actually recorded. There is no reason, however, to suppose that any of the sums shown in the tables had been paid in before the financial year concerned.⁸

The form of the pipe roll account is entirely foreign to modern eyes, not only because its purpose was different but because it was based on the use of the abacus. Roman figures made calculation in columns on paper impossible, so the actual computation was done with counters on the chequered cloth of the exchequer table. Meanwhile a clerk wrote on the roll both the separate items, often with considerable explanatory detail, and the totals called by the calculator. The roll records what the sheriff paid in cash, the sums 'allowed' to him for his local expenditure, and his final debt, as well as all arrears and extra sums

demanded from him and others in the shire, and the payments, if any, which were made in response to the demands.

The shire farm (Table 1)

The sheriff's primary responsibility was for the 'farm of the shire', the fixed lump sum at which the king's regular income from each county was assessed. The section for each county on the pipe roll opens with the sheriff's account for the farm, though the actual total due is not generally stated before the reign of Richard I. Before that it has to be computed by adding together the cash payments, the allowances for expenditure already incurred, and the final debt. These three items are stated in the first three columns of Table 1. County farms were generally expressed in 'blanched money', that is money melted down to a prescribed level of purity and weight. Payments in cash and the final debt were therefore usually entered in this form, while allowances for the sheriff's expenditure were first added up in the current coin in which they had been made and then reduced to a notional 'blanch' level by the standard deduction of a shilling in the pound. In the London and Middlesex account each year's allowances include about £40-£50 of regular payments in alms, wages, and so forth, and large sums for purchases, since the sheriff of London was in a particularly good position to buy all sorts of goods for the royal household and armies.

How far the county farms varied during the twelfth century has been a matter of dispute.⁹ At least from the reign of Henry I London and Middlesex had paid a joint farm, the great city contributing so much more than the little county that Middlesex had become a mere appendage of London. In 1130 the farm appears to have amounted to £526 is. I id. blanch,¹⁰ but after that the citizens seem to have secured from Henry I, or perhaps from Stephen, the right to nominate their own sheriffs at a farm of only £300 current (i.e. in current coin).¹¹ The history of the farm and the city's liberties in Stephen's reign is obscure, but by 1155 the farm seems to have been set at £500 blanch plus £22 current. Most of the small variations from that sum shown in some of the following years in Table 1 probably arise from the conversions of the current coin of the allowances into blanch money by the deduction of a shilling in the pound: the exchequer does not seem to have had any consistent method of dealing with small sums and fractions of pennies never appear in the final sums on the roll.¹² Some variations may arise from exchequer errors, either in calculation or in writing: some have been

detected, notably in the calculation of arrears, though here again discrepancies inevitably arose when blanch debts were converted back into current, since that was done at the time by adding a twentieth rather than a nineteenth, as would be required by modern arithmetic. It is hoped that the use of a mechanical calculator has reduced the number of further errors in the tables themselves: where the result of recalculating the farm has varied by more than a shilling from the expected total the figures have been checked from the manuscript.¹³

It looks as though, so far as the London and Middlesex account is concerned, G. J. Turner was right in guessing that apparent variations in farms in the early years of Henry II's reign were due rather to mistakes and to the slow and painful restoration of method and efficiency after the troubles of Stephen's reign than to deliberate efforts to increase the traditional totals. His other guess, that portions of farms payable in current coin represented increases after the basic blanch sum was fixed, is not corroborated here, so far as the period after 1155, and probably after 1130, is concerned. The total of 1130 is close to that of Henry II's reign and the omission of the £22 in 1161 and 1167, which was noted by James Tait, was certainly accidental in the second of those years and probably in the first as well.¹⁴ From 1174 to 1176 London and Middlesex were in the care of custodians who accounted only for actual receipts and expenditure, not for the full farm. During that time current receipts appear to have dropped but the payment of arrears, which had recently become rather high, was hastened. It is difficult to know whether the arrears reflected reluctance or inability to pay. There was nothing wrong with a sheriff ending his account with an unpaid balance provided he paid it within a year or two. He might have merely miscalculated how the blanching and accounts would work out, or have preferred to keep something in hand for emergencies. It is sometimes even suggested that small annual arrears are a sign of efficiency and better raising of money, because they show that the sheriff had money in hand. That seems exaggerated: one does not know that the sheriff did have the money in hand and in any case a really efficient sheriff might be able to keep a good enough balance by adjusting the relationship between what he raised and what he accounted for each year.

After 1176 payments on the farm account were kept up very well for some years though in 1185 an experienced and apparently hitherto successful sheriff incurred a personal penalty of a thousand marks for accepting inadequate sureties: his son was still slowly paying the debt in Henry III's reign.¹⁵ The first real change which can be detected in the farm (apart from the temporary changes of Henry I's

charter and Stephen's reign) came in the last three years of Henry II's reign,¹⁶ when £100 were pardoned each year though the formal demand was not reduced. Then, after the first account of Richard I's reign, came another year under custodians, perhaps to allow for the negotiations which resulted in the formal reduction of the farm to £300 blanch in 1190. It may be worth noting that the custodians of 1189-90 accounted for £294 5s. lod. current. It should also be noted that the new farm came into operation a full year before the commune of London was recognized.¹⁷

Little information is available about what dues and payments went to make up the farm at this period. There was little or no royal land in London and Middlesex apart from the royal palaces, so that allowances for the income of *terre date* (former royal lands granted out to subjects) do not appear in the accounts as they do for other counties. The customs payable at Billingsgate, St. Botolph's gate, and Gracechurch, and at the tron and sester (the public weigh-beam and measure), evidently formed part of the farm, and socage paid on houses may have accounted for a good deal in 1212 the sheriffs claimed allowance for socage on houses which were then in the king's hand.¹⁸

Extraordinary taxation (Table 2)

After the farm account and any account of arrears of the farm which may be outstanding the roll passes to the accounts of special taxes and to debts to the king incurred by individuals in the law-courts or in other dealings with him. All payments by individuals, whether Londoners or not, have been excluded from the tables,¹⁹ and so have separate taxes from London moneyers or Jews, scutages, and the danegelds and other taxes which were raised from Middlesex outside the city. The taxes present far fewer problems than does the farm, for they were always paid in current coin and from 1171 assessment and collection seem to have been almost entirely in the hands of the City authorities. That meant that the king was interested only in having as large a total as possible fixed and then getting in the full amount.²⁰ During the 1170s and eighties the citizens corporately took over responsibility for more and more of the arrears as well as for new taxes, and the arrears were increasingly consolidated together. In 1205 they also took over the bad debt of £120 owed since 1180 by certain aldermen of illicit gilds. It was paid with other outstanding sums in the next few years. Though the names of London taxes were to become a subject of controversy in Henry III's reign, there does not

seem to have been any particular contemporary significance in the way particular taxes were described before that time.²¹

Along with aids, gifts, and tallages the table includes the payments for charters and liberties which Richard I and John used as alternative ways of raising money. In 1202 the City authorities offered the king £40 to withdraw his protection from the London weavers' gild, and they subsequently paid the debt although the weavers had meanwhile raised their customary annual payment and survived. The fifteenth from which the Londoners sought exemption in 1205-6 was presumably the customs duty on imports and exports which seems to have been in force from 1203.²² In 1204 an account for it which found its way into the pipe roll included £836 125.10d. from London. It is not included in the table because it was paid on goods passing through London, not merely the goods of Londoners, and the City authorities as such do not seem to have been concerned in the assessment or collection.

The chief points to be noted about [Table 2](#) are firstly that it is incomplete: the lack of accounts for Richard I's ransom has already been mentioned, and John's taxes of a seventh on moveable property raised about 1203-4 and the thirteenth of 1207 are similarly absent from the pipe rolls.²³ Secondly, and here the table is more useful, there could be a great difference between the sums demanded in any one year and the sums paid; John, for instance, never succeeded in persuading the City to pay him an annual new year's gift, and in the early years of his reign the exchequer allowed arrears to pile up both on the farm account and on the extraordinary taxes.

Figures 1 and 2

Enough has been said to show that any annual totals of royal revenue from London which are compiled from the pipe rolls must be incomplete and may be misleading. Nevertheless without any totals at all it remains impossible to make even the roughest comparison between what the City as a whole had to produce at different times and for different kings. [Figures 1](#) and [2](#) should be regarded, not as showing any proportion of the total royal revenue, but as giving a rough measure of the central government's fiscal dealings with the City government. It has been constructed by adding together for each year the payments and allowances on current and past farms ([Table 1](#)) and the payments and allowances on current and past taxes ([Table 2](#)). Sums in blanched and current coin are shown separately

though on the same scale, which is strictly incorrect. To convert current into blanced money would, however, distort the tax payments and conceal the varying rates of conversion. To convert blanced back into current money raises the dilemma of adding a nineteenth according to modern arithmetic or adding a twentieth in the usual twelfth-century fashion. In any case the order of magnitude of yearly variations is not significantly affected. The figures suggest that while Henry II's fiscal demands were less consistently heavy than has sometimes been suggested, the higher level of the farm and the regular payment of arrears contrast strongly with the more erratic collection of money under his sons. The average revenue passing through the exchequer account from the farm of London and Middlesex and the City taxes for years in which we have full accounts was about £630 under Henry II, £430 under Richard I, and £680 under John. Apart from any entirely unrecorded payments, Richard I's ransom and several of John's taxes, which have been mentioned, should be particularly borne in mind as excluded from these averages.

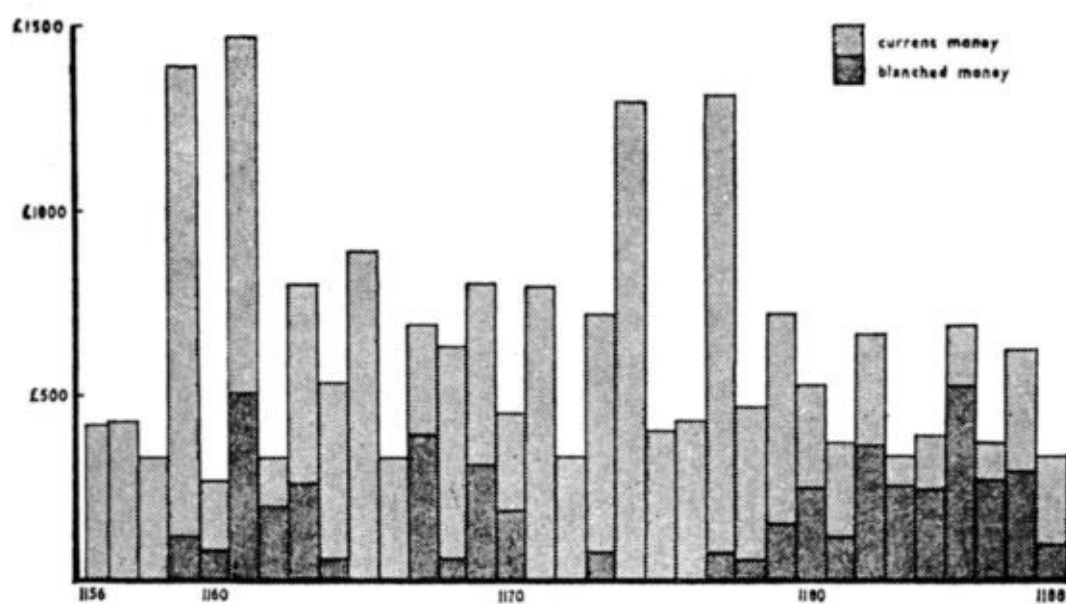


Figure 1: Royal income from London on the pipe roll account, 1155-88

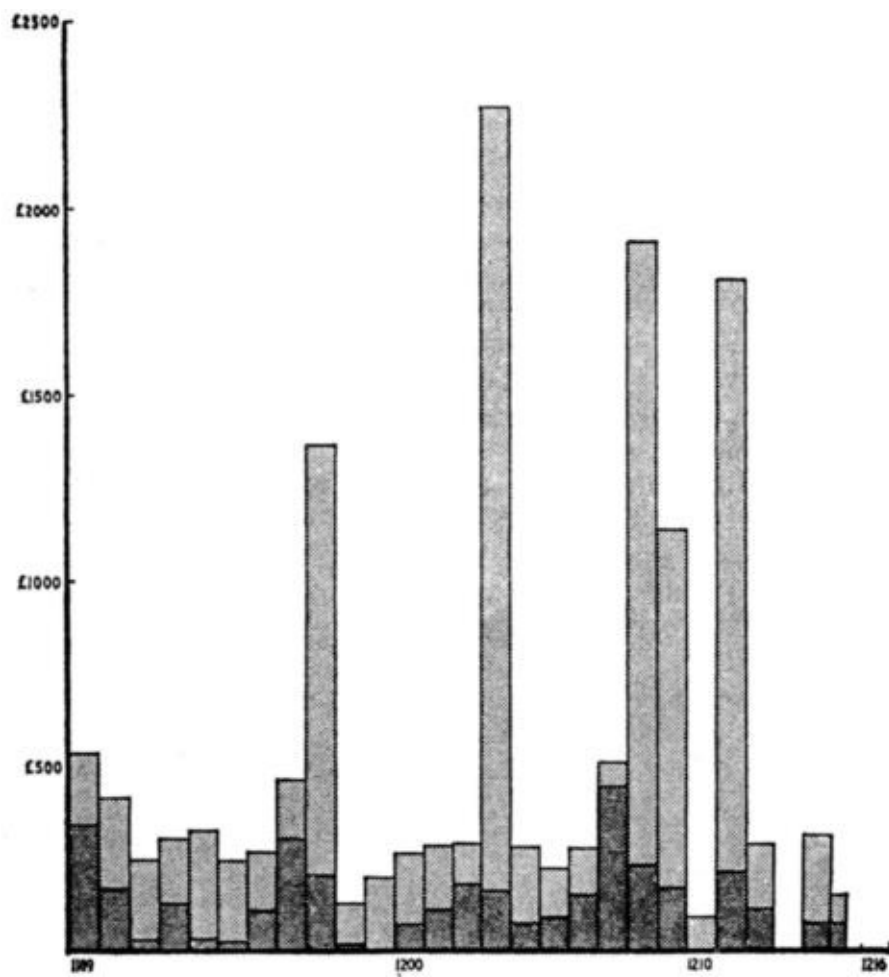


Figure 2: Royal income from London on the pipe roll account, 1189-1216

TABLE 1: THE FARM ACCOUNT

Figures taken directly from the text of the pipe roll are in roman type, those arrived at by calculation in *italic*, and those supplied from the roll of another year in square brackets []. The letters B or C after figures indicate that the sums are in blanchéd money or current coin respectively: see above p. 213. The absence of B or C means that the roll does not make it clear which form of calculation was used.

Where successive entries in the *Debt* column are bracketed together the debts were carried on from year to year, so that the totals are cumulative, not separate sums.

In the *Date of payment* and *Payment of arrears* columns the dates are those of the Michaelmas account (e.g. the first payment of arrears is a debt from the exchequer year 1154-5, the second is from the years 1155-6 and 1156-7).

The italic figures in the *Total farm* column have been produced by first (for years up to and including 1189) deducting £22 C (or an appropriate fraction thereof) from the total of allowances, then (all years) deducting one twentieth from the difference; then adding the difference of this to the payment and the debt: see above p. 214.

In the *Year* column an asterisk* means that a tax demand is recorded in this year, a dagger† that arrears of past taxes were paid in this year: see [table 2](#).

For specific footnotes see page 227.

<i>Year</i>	<i>Cash payment</i> £ s d	<i>Allowances</i> £ s d	<i>Debt</i> £ s d	<i>Date of payment</i>	<i>Total farm</i> £ s d	<i>Payment of arrears</i> £ s d
1154-5 first ½			[105. 0. 0] ^a	1161		
last ½			[2.10.10] ^a	1159		
1155-6: ½ yr*	0	336. 8. 1 C	71. 1.10 B	1159, 1161	375. 0. 0 B + 16.10. 0 C	
1156-7 ^b	0	434. 1. 2 C	129.14. 5 C ^c			
1157-8	0	333.18. 8 C	203.13. 5 B	1159 ^d	500. 0. 2 B + 22. 0. 0 C	
1158-9*	0	201. 2. 7½ C	e		e	2.10.10 (1155) 120. 0. 0 B (1156-7) 159. 1. 8 C (1158)

Year	Cash payment £ s d	Allowances £ s d	Debt £ s d	Date of payment	Total farm £ s d	Payment of arrears £ s d
1159-60†	81. 7. 5 B	56.17.10 C ⁱ	364.11. 7 B +22. 0. 0 C	1161	500. 0. 0 B +22. 0. 0 C	f
1160-1*	119.18. 0 B	335. 0. 7 C	61.16. 5 B	1163	500. 0. 0 B	140.18. 1 C (1155-7) 385. 9. 7 B (1160)
1161-2*	198. 8. 2 B +22. 0. 0 C	107.19. 6½ C	199. 0. 4 B	1163	500. 0. 1½ B +22. 0. 0 C	g
1162-3†	0	534. 4. 4½ C	0		499.19.11½ B ^h +22. 0. 0 C	260.16. 9 B (1161-2)
1163-4	58. 7. 8 B	477.17. 8½ C	8. 9. 5 C ⁱ	1165	499.10. 6½ B +22. 0. 0 C	
1164-5*	0	589.13. 6 C	0 ^j		500. 0. 0 B +22. 0. 0 C	8. 9. 5 C (1164)
1165-6†	0	322.13. 6 C	214. 7. 2 B	1167-8	"	
1166-7	191. 3. 4 B	296. 2. 1 C	27.10. 8 B [+22. 0. 0 C] ^k	1168	"	206. 5. 5 B (1166)
1167-8*	0	3. 9. 3 C	500. 0. 0 B +18.10. 9 C	1169 first ½	"	59. 6. 8 B (1166-7)
1168-9†: first ½	218. 3. 4 B	433.11. 4 C	148. 0. 0 B	1170	250. 0. 0 B +11. 0. 0 C	
last ½	97. 8. 4 B	43.12. 0 C	121.12. 3 B	1173-8	250. 0. 0 B +11. 0. 0 C	
Year	Cash payment £ s d	Allowances £ s d	Debt £ s d	Date of payment	Total farm £ s d	Payment of arrears £ s d
1169-70†	38.13. 2 B	259. 6. 2 C	357.19. 8 B		500. 0. 0 B +22. 0. 0 C	148. 0. 0 B (1168-9)
1170-1*†	0	278. 1. 4 C	614.12. 4 B	1173-8	"	
1171-2†	0	282. 5. 1 C	867. 5. 6 B		"	
1172-3*†: first ½	0	53.11.11 C	946.11. 7 B		125. 0. 0 B +5.10. 0 C	
last ½	73. 2. 6 B	118. 3. 1½ C	205. 6. 1 B	1175-6	375. 0. 0 B +16.10. 0 C	135.17. 9 C (1169-72)
1173-4†: first ½	0	168.11.11 C ⁱ	457. 4. 6 C		"	
last ½	0	59. 8. 2 C			(custodians)	922. 9. 4 C (1169-74)
1174-5†	0	224.19. 8 C	13. 5.11 C	1176	"	143.10. 0 C (1169-74)
1175-6†: first ½	2.17. 0 C	156. 1. 4 C	9. 9. 9 C		"	
last ½	0	151. 4. 6 C	13. 8.10 C surplus		125. 0. 0 B +5.10. 0 C	61. 3. 9 C (1169-75)
1176-7*	71.18. 4 B	458. 9. 4 C	0		499.19. 8 B +22. 0. 0 C	140.2. 0 C (1169-72)
1177-8†	56. 5. 4 B	321.17. 8 C	158.16. 9 B	1179	499.19.11 B +22. 0. 0 C	51. 4. 3 C (1169-72)
1178-9†	0	512. 4.11 C	34. 5. 4 B	1180	499.19. 7 B +22. 0. 0 C	158.16. 9 B (1178)

Year	Cash Payment £ s d	Allowances £ s d	Debt £ s d	Date of payment	Total farm £ s d	Payment of arrears £ s d
1179-80†	217.11. 9 B	270.19.11 C	45.17. 4 B	1181	500. 0.10 B + 22. 0. 0 C	34. 5. 4 B (1179)
1180-1†	93.18. 3 B	251. 8. 0 C	188. 3. 1 B	1182	500. 0. 0 B + 22. 0. 0 C	45.17. 4 B (1180)
1181-2	175.10. 0 B	297.18. 3 C	62. 7. 7 B	1183	"	188. 3. 1 B (1181)
1182-3	195. 7. 9 B	81. 4. 3 C	248. 7. 3 B	1184	500. 0. 1 B + 22. 0. 0 C	62. 7. 7 B (1182)
1183-4	0	142.12. 8 C	385. 8. 0 B	1185	"	248. 7. 3 B (1183)
1184-5	141. 7. 6 B	161. 5. 4 C	226. 6. 5 B	1186	500. 0. 0 B + 22. 0. 0 C	385. 8. 0 B (1184)
1185-6	45.19. 3 B	114.13. 4 C	366. 0. 1 B	1188-9	"	226. 6. 5 B (1185)
1186-7†: first ½	295.10. 0 B	153.16.11½ C	184.16. 1 B		250. 0. 0 B + 11. 0. 0 C	
last ½	0	275.10. 0 C ^m	1. 5. 1 B surplus		250. 0. 5 B ^m + 11. 0. 0 C	
1187-8	0	339.10. 6 C ^m	197. 1.11 B	1189	500. 0. 0 B ^m 22. 0. 0 C	97.10. 0 B (1186-7)
1188-9	0	288. 0. 7 C ^m + 57. 5. 0 B	192. 1.10 B	1190, 1193-5 1197-8, 1200-2	500. 0. 1 B ^m + 22. 0. 0 C	284. 8. 0 B (1186-8)
1189-90	67. 9. 2 C	179.19.11 C	46.16.10 C ^a	1191, 1195-8 1200-4, 1206-7	(custodians)	171. 2. 6 B (1189)
Year	Cash payment £ s d	Allowances £ s d	Debt £ s d	Date of payment	Total farm £ s d	Payment of arrears £ s d
1190-1	0	219.10. 7 C + 25.10. 0 B	65.18.11 B	1192, 1194 1196-8	300. 0. 0 B	7.10. 0 C (1190)
1191-2	110. 9. 9 B	173. 8. 9 C	24.14.11 B	1193	300. 0. 0 B	20. 0. 0 B (1191)
1192-3	0	291.19. 7 C	16. 8. 3 B	1194	293.15.11 B	31. 4.11 B (1189, 1192)
1193-4*	0	223. 0. 6 C	88. 2. 6 B	1195-6	300. 0. 0 B	22.14. 9 B (1189, 1191, 1193)
1194-5	87.15. 0 B	159. 0. 2 C ^o	61. 3.10 B	1196-7	"	21.19. 0 B (1189, 1194) 1. 0. 0 C (1190)
1195-6*	151.18. 0 B	155.17.10 C	0		"	154.14.11 B (1191, 1194-5) 1. 6. 8 C (1190)
1196-7†	197.10. 8 B	107.18. 3 C	0		300. 0. 0 B	7. 8. 4 B (1189, 1191, 1195) 0.10. 0 C (1190)
1197-8	[?5.17. 9 B] ^p	111. 9. 2 C	0		"	11.18. 5 B (1189, 1191) 0. 8. 0 C (1190)
1198-9	0	200. 4. 6½ C	109.15. 7½ B	first account 1261	300. 0. 0 B	
1199-1200*	65.19. 6 B	195.13. 6 C	48. 2. 8 B	1207	300. 0. 0 B	0.14. 8 B (1189) 0.18. 4 C (1190)
1200-1	128.18. 1 B	156. 2.10 C	22.15. 2 B	1207	"	1. 0. 0 B (1189) 0. 4. 0 C (1190)

Year	Cash Payment £ s d	Allowances £ s d	Debt £ s d	Date of payment	Total farm £ s d	Payment of arrears £ s d
1201-2*	182. 3. 3 B	108. 7. 2 C	14.17.11 B	1207	"	1.11. 0 B (1189) 0. 6. 0 C (1190)
1202-3†	162.16. 9 B	123.10. 9 C	19.15. 9 B	1207	"	0. 6. 0 C (1190)
1203-4*	72. 6. 3 B	209.10. 9 C	28.11. 6 B ^a	1207	"	0.10. 0 C (1190)
1204-5*†	85. 8. 8 B	r	84.13. 2 B	1207-8	"	
1205-6*	152. 8. 5 B	126.11. 7½ C ^c	27. 6. 6 B	1207	"	0. 5. 2 C (1190)
1206-7	224. 4. 1 B	69. 4. 2½ C	3. 8.11 B	1208	"	0. 5. 2 C (1190) 218.18.11 B (1200-6)
1207-8*†	206. 3. 9 B	98.15. 1 C	0		"	30.12. 9 B (1205, 1207)
1208-9†	174. 3. 4 B ^t	129. 2. 4½ C	0		"	
1209-10	0	89.14. 4½ C	214.15. 0½ B	first account 1235	"	
1210-11*†	219.16. 1 B	85. 4. 8 C	0. 5. 9 B surplus		"	
1211-12	129.16. 5 B	160.12. 3½ C	1. 8.11 B	1214	300. 0. 0 B	
1212-13 ^u						
1213-14*	70. 4. 6 B	243. 2. 9 C	1. 4. 0 B		"	1. 8.11 B (1212)
1214-15: first ½	70.17. 5 B	81. 6. 6 C	1.17. 5 B	c.1218-21 ^v	150. 0. 0 B	
1215-16 ^u						

NOTES TO TABLE 1

^a Figures supplied from accounts of 1159 and 1161.

^b Account rendered in 1158.

^c Allowances checked from P.R.O. E 372/4, rot. 1, m. 1. In 1159 the debt was given as ,£189 14s 5d B. Neither figure, nor either of them with B and C reversed, produces the right total for the farm. Since there must be a mistake somewhere the total farm cannot be calculated. In 1161 one of the sheriffs of 1155-7 still owed £18 19s id.

^d £159 1s 8d. C paid in 1159; no further accounts recorded.

^e No debt entered. On the usual farm it would be £349 6s 7½d B. No further accounts recorded.

^f Payments of arrears of previous years apparently missing from account. Allowances corrected from P.R.O. E 372/6, rot. 2, m. 2.

^g Later part of account partly illegible, with part torn off.

^h There appears to be an error in the calculation of blanced values of payments to William Cade from both old and new farms.

ⁱ If the debt (given as in current coin in P.R.O. E 372/10, rot. 2, m. 2d and E 352/2, rot. 1, m. 2d) should be in blanced money, the farm would be £499 18s 11½d B+ £22 C.

^j £29 5s 10d B surplus on farm transferred as £41 5s 2d C to the aid account.

^k £22 C omitted from account but included in next year's account of arrears.

^l Allowances corrected from P.R.O. E 372/20, rot. 1, m. 2.

^m Allowances include £100 pardoned to sheriffs.

ⁿ The custodians had sub-farmed certain customs etc. and the debt was owed by the farmers.

^o Allowances corrected from P.R.O. E 372/41. rot. 9, m. 1.

^p No payments entered, but the debt was apparently paid on the account and should amount to this sum.

^q Debt corrected from P.R.O. E 372/50, rot. 9, m. 1.

^r Allowances partly illegible in both P.R.O. E 372/51, rot. 1, m. 2, and E 352/19, rot. 13, m. 2d. The total appears to be at least £93 15s 7½d C.

^s Allowances corrected from P.R.O. E 372/52, rot. 7, m. 1.

^t Payments and allowances corrected from P.R.O. E 372/55, rot. 3, m. 2d.

^u No pipe roll.

^v Paid on the account: for the date and for the last years of the reign see *Pipe Roll 17 John*, 1-7.

TABLE 2: EXTRAORDINARY TAXATION

All sums of money are expressed in current coin.

For the explanation of roman and italic type, etc., and of dates in the last two columns, see notes at the head of table 1.

For specific footnotes see page 227.

<i>Year</i>	<i>Tax</i>	<i>Demand</i> £ s d	<i>Payments and</i> <i>allowances</i> £ s d	<i>Debt</i> £ s d	<i>Date of</i> <i>payment</i>	<i>Payment of arrears</i> £ s d
1155-6	Aid	120. 0. 0	85.10. 6	0 ^a		
1158-9	Gift	1043. 0. 0	913. 2. 1	130. 4. 7	1160	
1159-60						130. 4. 7 (1159)
1160-1	Gift	666.13. 4	492. 0. 0	[52. 6. 8] ^b		
1161-2	Aid	c	c	[6.13. 4] ^c	1163	c
1162-3						6.13. 4 (1162)
1164-5	Aid for Welsh campaign	333. 6. 8	291. 5. 2 ^d	38.13. 6 ^d	1166, 1169, 1171, 1208-9	
1165-6						6. 0. 0 (1165)
1167-8	Aid for marriage of king's dau.	617.16. 8	566.13. 4	41. 3. 4 ^e	1169-70, 1179-81 ^e	
1168-9						11.13. 4 (1165-8)
1169-70						7. 3. 4 (1168)
1170-1	Gift for Irish campaign	666.13. 4	514. 3. 4	152.10. 0	1172-83, 1208-9	0.10. 0 (1165)

<i>Year</i>	<i>Tax</i>	<i>Demand £ s d</i>	<i>Payments and allowances £ s d</i>	<i>Debt £ s d</i>	<i>Date of payment</i>	<i>Payment of arrears £ s d</i>
1171-2	New gift	666.13. 4	337. 0. 0	329.13. 4	1174-5, 1208-9	54. 0. 0 (1171)
1172-3						2.13. 4 (1171)
1173-4						139.14. 2 (1171-3)
1174-5						38.10. 0 (1171-3)
1175-6						62. 0. 2 (1171-3)
1176-7	Aid	666.13. 4	630.12. 3	36. 1. 1	1178-9, 1208-9	10. 6. 8 (1168-73)
1178-9						40.15. 0 (1165-77)
1179-80						1. 6. 8 (1171)
1180-1						2. 0. 0 (1168-71)
1186-7						0.13. 8 (combined) ^t
1193-4	Gift to have king's goodwill and their liberties, and for his ransom	1000. 0. 0	0	1000. 0. 0	1197	
1195-6	Gift as present to king	333. 6. 8	0	333. 6. 8	1197, 1208-9	
1196-7						1055. 6. 8 (1194-6)
<i>Year</i>	<i>Tax</i>	<i>Demand £ s d</i>	<i>Payments and allowances £ s d</i>	<i>Debt £ s d</i>	<i>Date of payment</i>	<i>Payment of arrears £ s d</i>
1199-1200	For confirming their liberties For duplicating their charter	2000. 0. 0 5. 0. 0 and tonel of wine	0	2005. 0. 0 and tonel of wine	1203, 1208	
1201-2	To quash weavers' gild	40. 0. 0	0	40. 0. 0	1205	
1202-3						1991. 2. 7 (1200)
1203-4	Fine for service overseas	1000. 0. 0	0	1000. 0. 0	1208-9, 1211	
	New year's gift	100. 0. 0	0	100. 0. 0	pardoned 1207	
1204-5	New year's gift	100. 0. 0	0	100. 0. 0	pardoned 1207	40. 0. 0 (1202)
1205-6	New year's gift	100. 0. 0	0	100. 0. 0	pardoned 1207	
	For quittance from fifteenth	133. 6. 8	0	133. 6. 8	1211	
1207-8	Debt acknowledged by citizens	1000. 0. 0	1000. 0. 0	0		581. 7. 5 (1165-1204)
1208-9						837. 5. 0 (1165-1204)
1210-11	Gift	333. 6. 8	1333.13. 4	0. 6. 8 surplus		173. 6. 8 (1204-6)
1213-14	Tallage	1333. 6. 8	0 ⁸	1333. 6. 8 ⁸		

NOTES TO TABLE 2

^a £14 16s 4d pardoned, £20 waste, making a total of £124 6s 10d.

^b £122 pardoned. Figure for debt supplied from 1163 account.

^c Account partly illegible with part torn off. Figure for debt supplied from 1163 account.

^d £41 5s 2d transferred from farm account. £3 8s pardoned this year and £4 10s in 1170-9.

^e £10 pardoned this year and £1 6s 8d in next two years. Last account 1189 when £19 13s 4d were still outstanding.

^f From 1185 the arrears of all outstanding aids except that of 1167-8 were combined and accounted for jointly. A further consolidation of arrears from the two previous reigns took place in 1203.

^g S. Mitchell, *Taxation in medieval England* (1951), 320, says that it was paid in full, but the roll gives the dates on which the citizens were to pay and does not say that they had done so. The absence of later accounts, combined with the importance attached to the record of this tallage in Henry III's reign, suggest that they may have paid it after the account was made.

¹ I should like to thank Mr. W. Kellaway and Miss M. Higgs of the Institute of Historical Research for allowing me to use its £.s.d. adding machine.

² The rolls for 1130, 1155-8, and 1189 were published by J. Hunter in 1833 and 1844. The rest were published by the Pipe Roll Society (1884-1961). The 1196 roll is lost but the society published the chancellor's roll (a duplicate of the pipe) instead. Neither roll survives for 1213 or 1216. The society's editors seem to have been slightly less meticulous in noting errors or variants of figures than of words.

³ See e.g. J. Ramsay, *Revenues of the kings of England, 1066-1399* (1925) and review by M. Mills in *Eng. Hist. Rev.* xli (1926), 429-31; A. L. Poole, *From Domesday Book to Magna Carta* (1955 edn.), 417, based on calculations by G. J. Turner, 'The sheriff's farm', *Trans. R. Hist. Soc.* ser. 2, xii (1898), 117-49; C. Stephenson, *Borough and Town* (1933), 161-3, 222-3.

⁴ J. H. Round, *Geoffrey de Mandeville* (1892), 357-9, 371-2; J. H. Round, *Commune of London* (1899), 229-34; G. J. Turner, *art. cit.*; J. Tait, *Medieval English borough* (1936), 165-9; H. G. Richardson and G. O. Sayles, *Governance of medieval England* (1963), 36n. I have discussed the constitutional aspects of the farm and shrievalty in 'The rulers of London in the twelfth century', *History*, lvii (1972), 337-57.

⁵ M. Mills, 'Experiments in exchequer procedure, 1200-32' and 'Reforms at the exchequer, 1232-42', *T.R.H.S.* ser. 4, vii, x (1925, 1927). For this period see the contemporary *Dialogus de Scaccario*, ed. and trans. C. Johnson (1950) and R. L. Poole, *The exchequer in the twelfth century* (1912); C. Johnson also gives a clear description of the sheriff's account in *Pipe Roll 2 Ric. I* and M. Mills gives a fuller one, showing later developments, in *Surrey Pipe Roll, 1295* (*Surr. Rec. Soc.* vii, 1924).

⁶ See e.g. J. E. A. Jolliffe, 'The *camera regis* under Henry II', *E.H.R.* lxviii (1953), 1-21, 337-62; H. G. Richardson, 'The chamber under Henry II', *ibid.*, box (1954), 596-611; Richardson and Sayles, *loc. cit.*, 216-17, 229-50.

⁷ *Pipe Roll 5 Ric. I*, pp. xxii-xxiii, 158. Though Richard asked London for £1,000 on his return, partly for his ransom, it is unlikely, despite disturbances there during his absence, that the citizens did not contribute in 1193: *History*, lvii (1972), 351.

⁸ Mills, *Surrey Pipe Roll, 1295*, pp. i, iii, v.

⁹ See e.g. works cited in n. 4. The calculations of J. Boussard, *Le gouvernement d'Henri II Plantagenet* (1956), 260-73, 445-50 are hard to relate to Turner's figures or those in the London account for 1130.

¹⁰ Cash payments £16 14s 9d blanch, allowances £209 6s 5½d current (= £198 17s 2½d blanch), debt £310 9s 2d blanch. Assuming £22 current were already included this comes to £505 3s 1½d blanch plus £22 current.

¹¹ C. N. L. Brooke, G. R. Keir, and S. Reynolds, 'Henry I's charter to London', *Jnl. Soc. of Archivists*, iv (1973); for Stephen's reign see *History*, lvii (1972), 342-3.

¹² See Turner, *art. cit.*, 120; Mills, *Surrey Pipe Roll, 1295*, p. xxii.

¹³ Where the total farm is given in the roll (and is in roman type in [Table 1](#)) variations by recalculation have not been noted: errors of over a shilling appear to have occurred in 1193, 1205, 1207, 1211 and 1212. For the precise methods of recalculating the farm see the notes at the head of [Table 1](#).

¹⁴ *Supra* n. 10; Tait, *loc. cit.*, 165-6; [Table 1](#), note k.

¹⁵ *Pipe Rolls 3i Henry II*, 222, *4 Ric. I*, 303, *14 Henry III*, 99.

¹⁶ Most of the period covered by the first account of Richard I fell in his father's reign. £100 current are omitted from all three totals in figs. 1 and 2.

¹⁷ See works cited in n. 4.

¹⁸ *Pipe Rolls 2 Ric. I*, 156, *13 John*, 132, *14 John*, 23; *Red Book of Exchequer* (Rolls series 1896), p. ccxiv. For the farm later, see G. Williams, *Medieval London* (1963), 87-88; *Munimenta Gildhallae Lond.* (Rolls series 1859-62), i. 223-38. Entries in *Pipe Rolls 3 é 4 Ric. I*, 136, 137 (cf. *History*, lvii (1972), 348*n*) suggest that the sheriffs received 17s a day from the constable of the Tower: if it were a regular payment it would account for £310 5s a year, a large proportion of the farm, but without information about whom the constable collected it from and why, it remains mysterious.

¹⁹ Including loans offered by three citizens in 1172-3 and the amercement of the sheriff in 1185.

²⁰ The aid of 1167-8, with its odd total, was assessed by wards: *History*, lvii (1972), 344*n*.

²¹ S. K. Mitchell, *Taxation in medieval England* (1951), 323-30; R. S. Hoyt, *The Royal demesne* (1950), 111-20.

²² Rather than 1202 as *Pipe Roll 6 John*, p. xliii; see *ibid.* 218 where the two forms of dating are inconsistent. Cf. *Pipe Roll 5 John*, pp. xiii, 11, 12.

²³ *Pipe Rolls 5 John*, p. xii, *9 John*, pp. xvii-xxi.

XI

Decline and decay in late medieval towns: a look at some of the concepts and arguments¹

The fortunes of late medieval towns seem to have become rather a contentious topic.² That is probably a good thing. It is a poor historical proposition that cannot be illustrated by *some* evidence, but proof of an historical phenomenon like general decline or decay requires something more than illustration - something that argument may help to secure. So far, however, as S. H. Rigby points out,³ the debate has suffered from an uncertainty over terms that may frustrate the advance of knowledge and understanding. Two words which he did not mention but which seem to me particularly unclear are 'decline' and 'decay' themselves. Until they are examined more closely we may not be sure enough of what anyone is trying to prove to know whether he has succeeded or not.

The arguments about urban decline or decay are closely connected with the generally accepted view that a fall in population during the later Middle Ages caused a fall in economic activity. The word 'decline' for this fall in population has the authority of Postan,⁴ but it may be misleading, for, although it suggests a steady downward trend, it continues to be used by some who think that, however much population dropped in the fourteenth century, it was no longer falling in the fifteenth.⁵ It is not always clear whether those who refer to 'declining population' really mean what Saltmarsh, with admirable clarity, called 'not simply a population that had fallen, but one which was falling progressively'.⁶ This is particularly important when one comes to consider the economic effects of population changes. If population was static (or 'stagnant', though that makes it sound more sinister), or even if it fluctuated, should we expect that the economy as a whole, or urban economies in general, continued to contract? Though J. H. Hatcher argues forcefully that population continued to decline throughout the fifteenth century, the scale of the decrease which he himself postulates is still not

such as to make its economic impact very easy to assess⁷ and some of the evidence he adduces might serve as well to explain failure to rise as to explain an actual decline. Even if one takes the steepest possible curve within his 'plausible estimates' of decline, is it clear that fifteenth-century England was subject to 'prolonged and remorseless demographic attrition ... capable of explaining the ubiquity of the urban malaise'?⁸ If it is not, is there any other *general* cause which can do so? Are we after all sure that the 'malaise' was general, or are we just looking for evidence which will illustrate a malaise that we expect to be general because the concept of 'declining population' invites us to do so?

Everyone agrees that some towns had periods of prosperity. York and Coventry, the respective starting-points for Dobson's and Phythian-Adams's impressive surveys of the evidence of decline and decay, both seem to have done well until about the middle of the fifteenth century.⁹ The problem is to decide which times, and which towns, were typical and which exceptional. Distance telescopes time for us, but the 'later Middle Ages' cover a long stretch, even before they are extended to include most of the sixteenth century. Given the scarcity of demographic evidence between the Black Death and the 1520s it is not surprising that we keep harking back to the earlier fourteenth century for comparisons, but we should not assume that people in the fifteenth century did the same. Even if (as seems probable) most towns were smaller and less rich than they had been in 1300 that does not necessarily mean that they were all 'in decline' in the fifteenth century or that the long-term demographic trends were the chief determinants of the fortunes of individual places. Historians love origins and long-term trends and perhaps nowadays we are particularly drawn to them when they are gloomy. Nevertheless, to discount periods of urban prosperity in the later Middle Ages as fleeting, almost illusory 'Indian summers' may be like discounting the nineteenth-century growth of the British empire because of the loss of the American colonies in the eighteenth and the dissolution of the whole thing in the twentieth.

The previous paragraph, moreover, illustrates a further difficulty in that one is tempted to slide (rather than to reason) not only from population to the economy but from economic activity to prosperity. The questions Rigby asked about economic growth in a later medieval context apply equally, or more, to prosperity. What does it mean and how does one prove it - or its opposite? Is one talking about a change in the total wealth of a town, in the number or wealth of its richest citizens, or in the mean or modal income or standard of living of everyone? It is this sort of uncertainty, and emphatically not the desire for a soggy compromise or

‘neutralist text-book orthodoxy’ that makes me want the evidence looked at more closely. Dobsons and Phythian-Adams have presented a strong case.¹¹ It is not only based on much evidence but has the vital scholarly merit of being firm enough (once a few fuzzy edges to some of the terms are clarified) to be testable. The next stage in advancing knowledge is to test it - that is, not merely to accumulate convergent illustrations but to see how much evidence can be found to modify or contradict it and how much is equally, or more, compatible with alternative explanations. To doubt the proposition, or parts of it, meanwhile is not to impugn the scholarship of its proponents. It is a scholarly duty and a compliment to the stimulating quality of their work.

There are many points which need further examination. The evidence of fine private houses and the chronology of their building in, for instance, Lynn and Southampton, suggest that falling overseas trade (or its monopoly by aliens) did not impoverish the burgesses as much as has been thought.¹² As more evidence of buildings emerges, it is important not to close our minds to its significance - either way. Some evidence is hard to interpret chronologically: Churches are unlikely to be closed, for example, until some time after their congregations have shrunk, so that closure need not imply (though it may) that things are still getting worse. Phythian-Adams sees no need to doubt the reluctance of substantial citizens to fill posts of fiscal responsibility and Dobson says that examples ‘derived from published town records along could be multiplied *ad nauseam*’.¹³ But we have no right to take even their words, based on even their knowledge of the sources, on trust. We need to weigh the evidence - to know how often fines were actually imposed and whether the records will show the problem to have been more serious in some places or some decades than in others.¹⁴ Similarly, we now have a number of cases in which the reduction of tax quotas or fee-farms is *prima facie* likely to reflect genuine poverty, but alternative explanations cannot be eliminated merely because we have evidence - even a lot of evidence - to support an explanation already propounded by good scholars. A. P. M. Wright’s study, the most detailed that I have consulted, suggests that Exchequer procedures themselves accounted for some of the apparent difficulties in payment. That may be partly because he was interested in governmental procedures and relations between Crown and boroughs rather than in economic trends, but if the fiscal system (along perhaps with other political trends of the time) encouraged a tax-evasion culture, then the use of the fiscal evidence must take that into account.¹⁵ Another detailed study which I for one have ignored until too recently is that on

Battle by Eleanor Searle. Here several types of evidence which might on their own suggest decline (loss of privileges, abandonment of the market place and hall, investment in rural rather than urban property) go along with seemingly 'solid prosperity' until the Dissolution.¹⁶ If Battle suffered thereafter, as seem highly probable, it was not apparently as the last stage in a long decay.

The debate is on. With the Dobson/Phythian-Adams thesis to guide and stimulate research we should learn much more about late medieval towns - particularly if we concentrate on refining and testing hypotheses and do not treat them as labels which, however we interpret them, enable us to accept or reject the whole package without further enquiry about what it really contains.

AFTERTHOUGHTS

A good deal of the discussion since this was written is surveyed and the evidence is evaluated by D. Palliser, 'Urban decay revisited', in *Towns and Townspeople in the fifteenth century*, ed. J.A.F. Thomson (Gloucester, 1988), 1-21 and A. Dyer, *Decline and growth in English Towns, 1400-1640* (London, 1991).

* This chapter has been re-formatted for this publication. It was originally published in *Urban History Yearbook*, 1980, as pp. 76-78.

¹ Professor R.B. Dobson and Mr C.V. Phythian-Adams have kindly both read this paper in typescript, though no doubt they disagree with much of it. Mr Phythian-Adams also allowed me to read *Desolation of a City* in proof and to refer to it.

² S.H. Rigby, 'Urban decline in the later Middle Ages', A. Dyer, 'Growth and decay in English towns 1500-1700', and C.V. Phythian-Adams, 'Dr Dyer's urban undulations', all in *Urban History Yearbook* (1979); and D.M. Palliser, 'A crisis in English towns? The case of York, 1460-1640', *Northern History*, xiv (1978), 108-25.

³ S.H. Rigby, *Urban History Yearbook* (1979), 56-7.

⁴ M.M. Postan, 'Some economic evidence of declining population in the later middle ages', *Economic History Review*, 2nd ser., ii (1950), 221-65 (or as 'Some agrarian evidence...' in *Essays on Medieval Agriculture*, 1973).

⁵ e.g. J.R. Lander, *Conflict and Stability in Fifteenth-Century England* (1969), 22, 28, 35; F.R.H. du Boulay, *An Age of Ambition* (1970), 32-6.

⁶ J. Saltmarsh, 'Plague and economic decline in England in the later Middle Ages', *Cambridge Historical Journal*, vii (1941), 30. Postan does not distinguish very clearly a population static in the fifteenth century from one still falling: Postan, *op. cit.*, 245.

⁷ J.H. Hatcher, *Plague, Population and the English Economy, 1348-1530* (1977), *passim*, especially 11, 12, 68-9, 73.

⁸ R.B. Dobson, 'Urban decline in late medieval England', *Transactions of the Royal Historical Society*, 5th ser., xxvii (1977), 20-1.

⁹ On York, *ibid.*, and Palliser, *op. cit.* On Coventry, C.V. Phythian-Adams, 'Urban decay in late medieval England', in P. Abrams and E.A. Wrigley (eds), *Towns in Societies* (1978), 159–85 and *idem*, *Desolation of a City: Coventry and the urban crisis of the late Middle Ages* (1979). It is not my intention to quarrel with the evidence of Coventry's (or York's) sixteenth-century troubles, let alone with Phythian-Adams's fascinating study of Coventry society, which seems to me to stand entirely independent of any argument about earlier decline there or general decline elsewhere.

¹⁰ I omit here the issue of declining or static population before 1348, but it should be noted that the 'Malthusian' thesis has not gone unchallenged. If there was a 'Malthusian' situation the Black Death in any case seems to have eliminated it, so that the situation was sufficiently changed to justify treating it as a separate problem.

¹¹ Their arguments seem to me sufficiently similar to make it not improper, I hope, to consider them together in this way as making a single case.

¹² V. Parker, *The Making of King's Lynn* (1911), 4–5, 11–12, 30, 166; C. Platt, *Medieval Southampton* (1973), 145–7, 152–71, 182–5, 203–4, 215–24; see also e.g. J. Campbell. 'Norwich' in M. D. Lobel and W.H. Johns (eds), *The Atlas of Historic Towns*, ii (1975), 16–17.

¹³ Phythian-Adams, 'Urban decay', *op. cit.* 164; Dobson, *op. cit.*, 14.

¹⁴ The evidence of reluctance in late fifteenth-century Worcester comes from the *fixing* of fines: A.D. Dyer, *The City of Worcester in the Sixteenth Century* (1973), 191; there is not evidence before the mid-sixteenth century to show whether they were imposed there. After that they were 'almost unknown': *ibid.*, 196. At Coventry no fines were apparently imposed before 1495: Phythian-Adams, *Desolation of a City*, *op. cit.*, 47, 250–2, 287–8. Cf. Platt, *op. cit.*, 56–7, 176–7.

¹⁵ A.P.M. Wright, 'The relations between the king's government and the English cities and boroughs in the fifteenth century' (Ph. D. thesis, University of Oxford, 1965), 160–250. Dobson's comment (*op. cit.* 12n., is fair but note e.g. pp. 172, 184, 192, 212, 222–4, 230–50. See also Platt, *op. cit.*, 169–75.

¹⁶ E. Searle, *Lordship and Community: Battle Abbey and its banlieu, 1066–1538* (1974) 351–66.

XII

*The forged charters of Barnstaple*¹

THE people of the Devonshire town of Barnstaple, from the fourteenth century to the twentieth, have cherished the tradition that their first charter was granted to them by King Athelstan,² and in the eighteenth century the borough was cited as a leading example of Anglo-Saxon liberties and representative institutions.³ Although professional historians since then have discounted Barnstaple's preconquest liberties, the town's charters from Henry II, John, Henry III, Edward I, and Edward II have been accepted, and their provisions are duly recorded in *British Borough Charters*.⁴ It is, however, the contention of this article that all these charters were fabricated in the fifteenth century by the ingenious method of copying corresponding charters to Exeter, changing the name of the town, and securing an exemplification from chancery. The contention is based upon two lines of argument. The first is founded upon the evidence of the charters themselves, and the second upon the constitutional history of Barnstaple at the time. The charters will be taken first because it is difficult to appreciate the anomalies of the town's history without knowing what they conflict with, and because it seems fitting to start an article about forged charters with the diplomatic evidence. Afterwards there follows a consideration of the powers actually claimed and exercised by the borough during the Middle Ages, which is intended to show that they were inconsistent with the pretended charters.

With the exception of one clause in the purported charter of John and one in that attributed to Edward II, which have no counterparts in the Exeter texts, the first five charters claimed by Barnstaple are each precisely the same as the contemporary charters to Exeter. The similarity extends from the content and order of clauses to the actual wording: the few verbal variations are those that a copyist might make. The comparison is not based on the originals of the Barnstaple charters since they do not exist. The earliest text of any of the town's charters is probably that given in the exemplification of 1445, though, as will be shown, it is

not impossible that this was itself fabricated only a short time before the undoubtedly genuine enrolment of 1478, which recites the same five again. Exeter's charters, on the other hand, survive in both original and enrolled form, with exceptions which in this context are insignificant. The relationship between the two series, with the sources for each charter, may be shown in tabular form, as follows. The relevant charters of Exeter from the beginning to 1465 are numbered for convenience E 1-14¹ and all the Barnstaple charters to 1512 B 1-8. These numbers will be used in the following discussion.

Exeter royal charters

Barnstaple royal charters

E 1: London, 1155-8: quittance from tolls etc.

3 originals: Exeter R[ecord] O[ffice],
charters Ia, b, c.

E 2: London, 1155-8: customs of London etc.

No original (first text 1300)

E 3: Geddington, 18 Sept. 1189: quittance from tolls etc.

Original: Exeter R.O., charter VII

E4: Rouen, 24 Mar. 1190: quittance from tolls etc.

3 originals: Exeter R.O., charters IV, V, VI

E 5: Saumur, 15 June 1200: confirmation of grants of Henry I and Richard I with additions

Original: Exeter R.O., charter IX

'Enrolment: Rot. Chartarum (Record Com.), p. 70

(P[ublic] R[ecord] Office], C 53/4, m. 29).

E 6: Westminster, 24 Mar. 1237: inspeximus of EB 3: Westminster, 20 Mar. 1237: as E 6 5 (inspeximus of B 2)

Original: Exeter R.O., Charter X

Enrolment: Calendar of Chart[er]

R[olls], i. 227

E 7: Easton on the Hill, 4 May 1300: inspeximus of E 2 and E 6, with quittance of murage and pavage etc.

Original: Exeter R.O., charter XVII

Enrolment: Cal. Chart. R. ii 483 (P.R.O., C 53/86, m. 8)

E 8: Westminster, 12 Nov. 1320: inspeximus of E 7, with exemption from pleading outside etc.

Original: Exeter R.O., charter XVIII

B 1: 1155-8: as E 2.

No original (first text in B 6)

} (grant of quittance from tolls, etc., from Richard I implied in B 2)

B 2: Salisbury, 15 June 1200: as E5

No original (first text in B 6)

No enrolment in Rot. Chartarum

No original (first text in B 6)

No enrolment in Cal. Chart R.i.

B 4: 1272-1307: as E 7 (inspeximus of B 1 and B 3 with additions)

No original (first text in B 6)

No enrolment in Cal. Chart. R. ii or iii.

B 5: 1307-27: as E 8 (inspeximus of B 4 with additions)

No original (first text in B 6)

Enrolment:: *Cal. Chart* R. iii. 431-2
(P.R.O., C 53/107, m. 6)

E 9: Eltham, 1 Mar. 1329: inspeximus of Exeter

R.O., charter XIII¹ and of E 8

Original: Exeter R.O., charter XIX

Enrolment: *Cal. Chart* R. iv. 101 (P.R.O.,
C 53/116, m. 25)

E 10: Westminster, 5 Dec. 1378: inspeximus of E
9

Original: Exeter R.O., charter XXII

Enrolment: *Calendar of] Pa[tent Rolls]*
1377-1581, p. 292 (P.R.O., C 66/303, m.
13)

E 11: Westminster, 14 Dec. 1414: inspeximus of
E 10

No original

Enrolment: *Cal. Pat. 1413-1416*, p. 283
(P.R.O., C 66/396, m. 12-11)

E 12: Westminster, 5 Nov. 1423: exemplification
of E 11

Original: Exeter R.O., charter XXV

No enrolment in *Cal. Vat. 1422-1429*

E 13: Westminster, 14 July 1438: inspeximus of
E 11

Original: Exeter R.O., charter XXVII

Enrolment: *Cal. Pat. 1436-1441*, p. 183
(P.R.O., C 66/442, m. 16)

No enrolment in *Cal. Chart* R. iii

B 6: Westminster, 8 Mar. 1445:
exemplification of B 3 and B 5

Original: N. Devon Athenaeum,
Barnstaple, MS. 3961

No enrolment in *Cal. Pat. 1422-*
1461

E 14: Westminster, 12 Feb. 1465: inspeximus of
E 13

No original:

Enrolment: *Cal. Pat. 1461-1467*, p. 400
(P.R.O., C 66/510, m. 4)

B 7: Westminster, 8 Feb. 1478:
exemplification of B 3 and B 5

No original

Enrolment: *Cal. Pat. 1476-1485*

pp. 62-63 (P.R.O., C 66/541, m. 20)

B 8: Westminster, 26 Feb. 1512:
inspeximus of B 7

Original: N. Devon Athenaeum,
MS. 3962

Enrolment: *Letters and Papers of Henry VIII*, i (1.) p. 525 (P.R.O., C 56/45, no. 8)

A detailed comparison of each of the first five charters in the Barnstaple series with its Exeter counterpart deepens the suspicions which are aroused by the series as a whole. Henry II granted two charters to Exeter, probably at the same time.¹ One (E1) gave quittance of toll, lastage, passage, and all other custom, and has no Barnstaple counterpart. The original of the other (E 2) is missing, but it is referred to in John's charter and recited in Edward I's. It confirmed the customs which the town had had in the reign of Henry I, 'remotis omnibus pravis consuetudinibus post avum meum ibi elevatis', and added that Exeter enjoyed the customs of London, as the barons of London testified, as freely and well as they had in Henry I's time. This seems consistent with the date of 1155 or possibly 1157 suggested by the final clause, which reads: 'Testibus Arn' episcopo Lexon' et Rag' comite Corn' et Thoma cancellario apud London'. Barnstaple's alleged charter from Henry II (B 1), as recited in the fifteenth-century texts (B 6 and B 7), varies from E 2 only by being addressed 'archiepis copis episcopis ac baronibus et fidelibus Francis et Anglicis' instead of 'episcopo Exoniensi et baronibus et fidelibus suis Francis et Anglicis'. The rest of the text is the same, except that 'civibus meis Exoniensibus' are replaced by 'burgensibus burgi Barnestapol'. The witnesses and place of issue would also be the same as in E 2, but that *apud* is omitted from the clause so that Thomas Becket appears to be chancellor of London and there is no place of issue. Exeter then secured two charters from Richard I (E 3, E 4) respectively giving freedom from toll, passage, and lastage, and freedom from toll, passage, pontage, and all secular service and custom. Neither of these figures in the Barnstaple series, though a grant of freedom from toll, etc., from Richard is implied in the terms of John's alleged charter to the town (B 2). This purported to be issued in 1200 and confirms, once more in almost identical terms to its Exeter counterpart (E 5), Henry II's grant of customs and Richard's grant of trading privileges.² In both Exeter and Barnstaple versions John then added freedom from

lastage and stallage, though in the Barnstaple charter this is preceded by an extra clause protecting any burgess from being molested because of another's debt.³ This independent clause might be taken as a point in favour of the Barnstaple charter, but such an argument collapses in the face of the witness and dating clauses:

E 5	B 2(as recited in B 6)
Testibus W. Mariscallo comite Pembr'	Testibus Willelmo Marascallo comite de
Willelmo Briewer Roberto de Turnham	Penbrok Willelmo Bruwer Roberto Turnham
Johanne Mariscallo. Data per manus S.	Johanne Mariscallo. Data per manus S.
archidiaconi Wellens' et Johannis de Gray	Willelmi archidiaconi Johannis de Gray
archidiaconi Gloucestr' apud Salmur' xv die	archidiaconi Glouc' apud Sar' quintodecimo
Junii regni nostri anno secundo.	die Junii anno regni nostri secundo.

The differences here are as significant as the similarities. It seems likely, if the fundamental argument of an Exeter source is accepted, that the Barnstaple fabricators worked from an inspeximus of between 1320 and 1465 (E 8-E 11, E 13, E 14) or the exemplification of 1423 (E 12), any of which would give them all the texts they used, combined together and recited in the appropriate form. There was no need for them to employ either the original of E 5 at Exeter or its enrolment on the charter roll, which incidentally omitted John Marshal's name. The recitations of E 5 in the later Exeter charters and in the enrolments are slightly different from the original version, and these differences, in the body of the text¹ as well as in the final clauses, fit in more closely with the Barnstaple version. Salisbury, as implied by *Sar'*, is an impossible place for John and his witnesses and officials in the summer of 1200, when they were in France.² In E 8-E 14 *Salmur'* (Saumur, dép. Maine-et-Loire) became *Salm^f*, from which Salisbury might be a plausible guess for a fifteenth-century transcriber. *S. archidiaconi Wellens'* became *S. (or Simonis) Wellen' archidiaconi* and *regni nostri anno secundo* was changed round to the more usual order.

Henry III confirmed Exeter's liberties in an inspeximus of John's charter, dated 24 March 1237 (E 6). The corresponding Barnstaple charter (B 3) is dated 20 March 1237, and once again the variations are minimal.³ The final clauses of the two charters are as follows:

E 6	B 3 (as recited in B 6)
Hiis testibus Simone de Monte Forti Willelmo	Hiis testibus Simone de Monte Forti
de Ralegh thesaurario Exoniensi Johanne filio Willelmo de Ralegh thesaurario Exoniensi	

Galfridi Almarico de Sancto Amando	Johanne filio Galfridi Almarico de Sancto
Nicholao de Molis Ricardo de Gray Johanne	Amando Nicholao de Meolis Ricardo de
de Plesset' Hamone filio Philippi Willelmo	Gray Johanne de Pleyser Hamundo filio
Gernun Emerico de Sacy et aliis. Data per	Philippi Willelmo Gernoun Emerico de Say
manum venerabilis patris Radulfi Cycestrensis	et aliis. Data per manum venerabilis patris
episcopi cancellarii nostri apud	Roberti Cicestrensis episcopi cancellarii
Westmonasterium vicesimo quarto die Martii	nostri apud Westm' vicesimo die Martii
anno regni nostri vicesimo primo.	anno regni nostri vicesimo primo.

The changes between the original of E 6 and its later recitations are less noticeable than in the case of E 5. The names of Ralph Neville, bishop of Chichester, who was chancellor in 1237,¹ and of Emery de Sacy and John de Plessey continued to be given correctly, as was the date of issue. *Molis* however became *Moeles* (E 9—14) and *Hamone* gave persistent trouble.² The derivation of B 3 from one of the later recitations of E 6 looks certain, but most of the variations must be attributed to the Barnstaple copyists themselves.

Henry III granted Exeter another charter in 1259, but this merely confirmed one from Richard of Cornwall, who then held the town, and had granted it at fee-farm to the citizens subject to his right of tallage.³ This privilege, which was in any case not maintained after Exeter returned to royal possession in the fourteenth century until a new royal grant was made, would have been particularly difficult to claim retrospectively, especially as Barnstaple had not belonged to Richard, and the charter has no counterpart in the Barnstaple series. In 1300 Edward I granted a charter to Exeter (E 7) in which he inspected E 2 and E 6, added quittance of murage and pavage throughout his jurisdiction, and confirmed all the liberties even if they had not been used hitherto. The corresponding Barnstaple charter (B 4) has no date or witnesses in the two fifteenth-century texts,⁴ and as with the earlier ones no enrolment has been found from which to supply a date. Apart from that its content is identical to that of E 7.⁵ The last charter in the series of suggested fabrications by exemplification is that of Edward II (B 5). His charter to Exeter (E 8) was issued in 1320, inspected his father's (E 7), and added that in exchange for the fine⁶ they had offered he had granted that the citizens should enjoy all the liberties even if they had not used them fully so far, that all their pleas (with the exceptions usual in such cases) should be determined before the mayor and bailiffs, that the citizens should not serve on juries, etc., outside the city or with outsiders, and that they should be quit of murage, pavage, piccage,

anchorage, standage, and segiage. Barnstaple's alleged charter from Edward II (B 5) is, like the previous one, unwitnessed and undated in the fifteenth-century texts and, once more, appears not to have been enrolled. Its provisions are identical with those of E 8 except that the words 'et quod habeant infangenethef et outfangenethef' are inserted between clauses dealing with the exclusion of outsiders from the townsmen's pleas.¹ Unlike the fine for E 8 the fine mentioned in B 5 is not recorded on the originalia rolls.²

Between 1329 and 1465 Exeter received a series of charters of which the majority were merely inspeximus and confirmations of the preceding ones. They added nothing (except for the inspeximus of Henry III's confirmation of his brother's grant, which was inapplicable to Barnstaple) to what was already in E 8 and were perhaps too recent for the burgesses of Barnstaple to be able to claim parallel charters with prudence. In view of the later Barnstaple exemplifications it is worth noting that in 1423 Exeter secured an exemplification (E 12) of its last charter (E11): the reason for this may have been that the original of E11, which is not at Exeter now, was already missing, though it was confirmed by inspeximus in the usual way in 1438, while the exemplification was ignored in later charters. Perhaps this exemplification suggested to the burgesses of Barnstaple a method of validating non-existent charters.

The Barnstaple charter which purports to have been issued on 8 March 1445 (B 6) presents much more of a problem than the earlier ones.³ It has no Exeter parallel, was not enrolled, and exists only in the form of an apparent original at Barnstaple. This takes the form of letters patent of exemplification of, to quote the document itself, a certain transcript of a certain charter of Henry III (B 3, which includes the text of B 2) among the records of the chancery in the Tower of London, and of a similar transcript of B 5 (including B 1, B 3,⁴ and B 4). It is to be noted that the documents exemplified were not said to be enrolments,⁵ no doubt because this claim could have been too easily tested, and it is just conceivable that some sort of 'transcripts' may then have been in the Tower, though no reference to any of the documents recited has been found in the chancery records before the enrolment of 1478 (B 7), and though even transcripts of unspecified records would presumably need certification by a responsible official. If 'transcripts' did exist and were certified, they must surely have been introduced to the Tower by the burgesses themselves, whether they had originally been made from the Exeter enrolments in the Tower or, as might be more convenient and discreet, from an original at Exeter. Exemplification was an odd method to use for

royal charters to a borough, though, as E 12 shows, it was not unprecedented. It was also, to say the least, unusual to issue an exemplification of charters of Edward I and Edward II without dating or witnessing clauses. Nevertheless exemplification had the advantage of being non-committal and therefore easier to obtain though less valuable than confirmation, while being perhaps colourable on the ground that Barnstaple was at the time a mesne borough. In fact the town had been in a similar position at the time of the purported charters, but since it had later escheated and the fifteenth-century owners held by more recent royal grants, and since Domesday Book showed it to have been ancient demesne, the chancery officials could easily have been deceived on the point.¹

B 6 has the appearance of a valid patent of the period. It bears a damaged impression of what appears to be the silver seal of Henry VI², though the broken edges as well as the modern repairs make it impossible to see whether the attachment to the cords is original. The document is written in a formal chancery hand, with the addition of very elaborate initials on the first line³. It lacks any mention of warrant or the note of parliamentary authorization for the date which was required by statute. A note on the fold at the foot says that the patent was examined by John Stopyndon and Richard Selby, and Selby's name appears at the end of the last line of the text, though with a flourish rather like a cursive M in front of it, which has not been found on other patents that bear his name⁴. Stopyndon was keeper of the rolls from 1438 until his death in 1447, and Selby was a chancery clerk by 1437 and probably until he died before November 1450⁵. The possibility of negligence by one or both of them cannot be ignored, though corruption seems unlikely. They each had some remote connection with Barnstaple through acting legally for the lords of the manor⁶, but as they were both active in legal and financial business outside their chancery duties, this was no doubt coincidence, and the chancery rolls do not produce any other very significant evidence of west-country connections for either of them.¹ It is improbable that two such senior officials would have had the motive to perpetrate a fraud, and in any case there may be nothing wrong with the issue of the exemplification as such, once the 'transcripts' had been produced. That the charter was forged seems on balance possible but improbable: its variations from the diplomatic norm are small, though they are suspicious when taken with the lack of enrolment, and the absence of any warrant or evidence of a fine,² and with the document's place in the whole Barnstaple series. Letters patent were of course not

always enrolled, but a borough which went to the trouble of fabricating 'transcripts' and then of getting a handsome patent with a corded seal to exemplify them, might surely have run to the expense of an enrolment to provide an undeniably valid transcript for the future. If B 6 was forged, the date when this was done is uncertain, though it may have been after 1450, when Selby and Stopynndon were safely dead, and before 1478, when an enrolment in the same terms was made.³ B 6 may in this case have been designed to support the request for a charter in 1478, and may have been held in reserve to be produced if the 'transcripts' then produced for exemplification were challenged. The fact that it was not in the event confirmed in B 7 may suggest that this did not happen though it may simply be a tribute to the correctness of chancery procedure in 1478: although B 7 was itself confirmed in 1512, an exemplification was not strictly capable of confirmation as such. The borough records do not seem to contain any evidence which would help to date a possible fabrication, or to trace the steps by which the exemplification was secured in 1445, if it was genuine. B 6 therefore remains something of a mystery and does not really help in elucidating the circumstances in which B 7 was enrolled.

B.7 was issued on 8 February 1478 and although no original survives the contemporary enrolment makes its validity virtually certain¹. Its issue nevertheless presents problems, since it takes precisely the same form as B 6, being letters patent of exemplification of 'transcripts' in the Tower of B 3 and B 5, with very few and small variations from B 6.² When B 7 was itself inspected and confirmed in 1512 (by B 8) the clerks seem to have been struck by the oddity of an exemplification rather than an inspeximus of borough charters. In the opening clause of the engrossment of B 8 ('Inspeximus littera patentes domini Edwardi nuper regis Anglie quarti de exemplificacione factas. . .') the word *exemplificacione* is left out, while in the enrolment it was inserted after the rest was written³. It is difficult to believe that the chancery officials of 1478 could have been completely oblivious of what worried their successors, even if we leave out of account the problem of how the 'transcripts' were made. In the absence of any note of authorization or fine in the enrolment, and apparently of any warrant for issue or record of a fine elsewhere,⁴ the particular officials to blame and the methods by which they were deceived or corrupted are no clearer than in 1445. None of the known chancery clerks of the period appears to have any obvious connection with Barnstaple,⁵ and though the borough receivers' accounts

show that negotiations for the charter had started before Michaelmas 1477 they do not reveal their methods or record any suspicious payments to outsiders. In 1476-7 John Culme, a local merchant and former borough receiver, and one of the town's burgesses at the parliament of 1478,⁶ received a payment of 26s. 8d. from the mayor 'pro carta domini regis confirmanda' and of 10s. 'pro carta habenda ultimo tempore eund' London'. The following year 10s. was paid to the mayor 'ad confirmandam cartam domini regis', 3d. was spent on wine for the recorder for viewing the charter, and 6d. on wine for the burgesses of the neighbouring village of Pilton to hear it read. The recorder and one John Rayny were both given wine when viewing the charter again in 1478-9.¹ It seems clear that B 7 was quite effectively published locally and there is no record of any objection to it then or later.

After B 7 the Barnstaple charters are straightforward. The inspeximus of 1512 which has already been mentioned (B 8), survives in original and in enrolment and bears a note of the fee paid in the hanaper, which is in turn entered on the originalia roll.² It is therefore even more clearly genuine than B 7, though it should be noted that in issuing an inspeximus and confirmation of an exemplification the chancery was being a little slack, however much a matter of course confirmations may have been for borough charters, and that the opening clause may suggest suitable doubts on the part of the engrossing clerk.³ Just as the exemplifications of 1445 and may be partially explained by Barnstaple having then been a mesne borough, perhaps the inspeximus of 1512 is explained by the undeniable fact that the town was now back in the king's hand. Successive inspeximus and confirmations of the usual kind were issued in 15 47, 15 5 4 and 15 60.⁴ Letters patent of incorporation were granted to the town in 1557, which were also confirmed in the 15 60 inspeximus and were amended in 1595 and 1611.⁵

The evidence so far produced is in part negative, consisting of an absence of contemporary texts of any Barnstaple charters before 1445. To this may be added an absence of fines recorded in the contemporary originalia rolls or of warrants among the incomplete series which survives.⁶ This may seem inconclusive when taken with the lack of similar record for undoubtedly genuine charters,⁷ and even for the Barnstaple charters of 1445 and 1478, which, it is suggested, were also genuine. But the evidence of the Barnstaple documents is not only negative. The extraordinarily close similarity to the Exeter charters is very hard to explain in

any other way than plagiarism. Taking the series as a whole it is hard to say whether the parallel with Exeter is more striking in the witness and dating clauses of the first three purported Barnstaple charters, or in the pattern of *inspeximus* throughout. Those charters (E 1, E 3, E 4) which were not recited in later Exeter confirmations are precisely those which were not recited in later Barnstaple ones, though their existence is implied in both E 5 and B 2. In each case (E 6 and B 3) Henry III's charter recited John's but not earlier ones, Edward I's (E 7 and B 4) was the first to recite Henry II's (E 2, but not E 1, and B 1), and also repeated Henry III's, while Edward II simply recited Edward I's. Each king made just the same additions to his predecessors' grants to each town, except that Barnstaple purported to gain extra clauses in B 2 and B 5. The only difference in the arrangement within the later charters is that the Exeter confirmations start with one charter from Henry III which could not be taken over by Barnstaple, while B 6 and B 7 pick out Barnstaple's alleged charter from Henry III to be recited first, instead of leaving it embedded in Edward II's as in the Exeter texts.

The charters themselves are only part of the relevant evidence. It is necessary to consider how well they fit into the history of the town as it is known from other sources. For the later part of the middle ages the picture is confused. As the evidence of the charters suggests, by the fifteenth century the people of Barnstaple were determined to increase their independence and it looks as if they did so by a slow encroachment that created several anomalies. Earlier the situation is very much simpler and it is abundantly plain that charters which make very good sense for Exeter in the twelfth and thirteenth centuries were quite unsuitable for any king to grant to Barnstaple.

Standing on the tidal waters of the Taw, where its Long Bridge spanned the river by the fourteenth century and perhaps some time before,¹ Barnstaple was a natural port and market centre for the prosperous agricultural area of north Devon.² It was one of four burhs in the county which the bishop notified of a land grant in 1018, and it had a mint by the eleventh century.³ In 1086 the king held the borough with 40 burgesses inside it and nine out. Other estates brought the recorded total to 67 burgesses, with two other houses and 38 wasted houses mentioned. Mr. Welldon Finn suggests that this may represent a population of about 350, ranking perhaps fourth among the Devon boroughs, after Exeter, Totnes, and Lydford.¹ The royal property in Barnstaple, together with the Domesday estate of the bishop of Coutances, passed to Juhel of Totnes in Henry I's reign, and became the centre of the honour or barony of Barnstaple. This was divided for a

while in the twelfth century and one moiety, apparently including at least part of the borough, came into the hands of the Crown in 1208.² It was reunited with the rest in 1213 and did not return to royal ownership until 1386, in fulfilment of a settlement with remainder to the king.³ Barnstaple was thus a mesne borough and any king who granted it a charter without reference to its lord would infringe the lord's rights. The first surviving inquisition post mortem for a lord of Barnstaple was held in 1274 on the death of Henry de Tracy. It says that Henry held the borough as the *caput* of his barony, that the castle was in some decay, and that there were 36 tenants *in burgagiis*, with others in the suburbs. He also had a market on Fridays and a two-day annual fair. Altogether his property was said to bring in between £5 and £6 a year.⁴ The inquests of 1274-5 and the Quo Warranto pleas of 1281 both show Henry de Tracy's successors in possession of the assizes of bread and ale, gallows, tumbrel, and pillory. In 1281 they claimed view of frankpledge as well, though the returns of 1274-5 refer to a sheriff's misdoings on his tour at Barnstaple.⁵ Meanwhile the town seems to have been developing as a commercial centre. The fair mentioned in 1274 had been in existence perhaps a century or more.⁶ In 1295 the bishop of Exeter was allowed a market and fair at Newport just upstream within his manor of Tawton, and in 1314 Pilton priory, on the other side of the town, got similar rights.⁷ Both Newport and Pilton must even then have been mere appendages to the centre at Barnstaple from a trading point of view. The borough sent representatives to parliament from 1295,¹ and although the lord's rights do not seem to have left much room for municipal independence, corporate life was developing. In 1180 the borough had had to pay the king one mark 'pro gilda sine waranto',² and before 1210 there was a mayor who with the burgesses gave formal approval to all the gifts which Juhel of Totnes had made to Barnstaple priory and bound themselves to do suit at the priory mill.³ From the early fourteenth century references to mayor and commonalty multiply. In 1320 the bishop of Exeter and the mayor and commonalty agreed to build a water-mill on the stream dividing their lands, for their joint profit. In 1327 Barnstaple priory released to the mayor and burgesses the grinding service which had been admitted over a century before.⁴ Copies of gild rolls of 1303, 1318, and 1329 show the mayor presiding over 'the gild of the liberty of the borough of Barnstaple' or 'the convocation of the fraternity of those who are in the liberty of the borough of Barnstaple, at the gild there'. The gild seems to have had over 200 members,

some two-thirds of them ‘de intrinsecis et feoffatis’.⁵ It seems reasonable to assume that, as happened elsewhere, it provided a forum for corporate activity in a borough whose lord retained most of the powers of local government. The earliest mayor’s court roll dates from 1328 and shows the court attaching merchants from Waterford in retaliation for attachments of Barnstaple men to pay Waterford tolls; registering debts and hearing cases of a more or less commercial nature; and imposing penalties for selling fish and bread against the assize, and for trespasses against the community.⁶ This jurisdiction is more extensive than the Hundred Roll and Quo Warranto evidence would suggest, but it is a petty affair compared to what Edward II had allegedly granted to the town. The few surviving mayor’s court records certainly bear no comparison with those that show the mayor’s court at Exeter in action at the same period.⁷

In 1340 the inhabitants of Barnstaple made their first recorded effort to achieve self-government, and at the same time made the first recorded reference to the charter of King Athelstan which was to prove so enduring a myth. They petitioned Edward III to grant them a charter confirming the liberties which they said that they had enjoyed time out of mind under Athelstan’s grant, and described these as all the liberties and free customs pertaining to a free borough: namely the right to bequeath tenements, elect a mayor before whom all pleas concerning the borough and suburbs should be held, send burgesses to parliament, assess themselves to taxes, be quit of pontage, etc., and have amends of breaches of the assizes of bread and ale and weights and measures, as well as tumbril and pillory. For good measure they asked the king to add return of writs, their own coroner, and a four-day annual fair. No doubt in compliment to the dedication of Barnstaple priory this was to be held at the feast of St Mary Magdalen, whereas the lord’s annual fair was traditionally held at the nativity of the Virgin. The inquisition *ad quod damnum* which was necessary before a charter could be granted declared that though the town was a borough and sent burgesses to parliament the burgesses had no right to bequeath their tenements by testament, that they elected their mayor by permission of the lord, that pleas were held before the steward and not the mayor, that the borough was taxed by the county assessors, and that the lord had the various assizes which the burgesses had claimed. They also noted that nothing was known of Athelstan’s charter and that the new liberties demanded would cost the king £10 a year, the lords of the town 40 marks, the lord of Braunton hundred 40s. and various other persons 40s. or less apiece.¹ In spite of this the people of Barnstaple managed to get another inquisition held in 1344 which unlike the first

was held in the town itself. The jurors admitted that Athelstan's charter had got lost ('casualiter fuit amissa') but they found that the borough had enjoyed all the liberties it claimed, though even so they said that pleas were held before the mayor and steward rather than before the mayor alone. The further franchises, they said, would damage no one.² Within a few weeks a third and final writ was issued on the information that the men of the town had deceitfully procured the second, and the third inquisition, held at Torrington, confirmed the findings of the first. Whereas the second inquisition described Barnstaple as a free borough, the third, like the first, used the word borough alone, and said that James Audley held the town of the king by barony. Among the new findings were that the grant of a coroner would cost the king £10 a year and the community of the county £1,000 because the town was an important thoroughfare so that there were many malefactors there; that the burgesses answered for a third of Braunton hundred in assizes and juries; that the sheriff held his tourn for the hundred at Barnstaple, attended by the mayor and twelve men of the borough; and that the burgesses provided the lord with four men each year to collect rents, amercements, and the tolls and profits of the market and fair. On the subject of the mayor they said that the town had no charter from the king or his predecessors to make the election.¹ It is difficult to believe that if the burgesses had had any charters at all they would not have mentioned them at this juncture, or would have appealed to so remote a figure as Athelstan. One of the oddities of Barnstaple's history is that these inquisitions which provide such strong testimony against the borough's charters and previous liberties have sometimes been cited in support of them. Yet one of the earliest historians to use the documents, Browne Willis, remarked in 1716: 'All that can indeed perceive in these first Petitions was an Endeavour of the Inhabitants to get a Charter of the King to exonerate them from their Lord's Jurisdiction.'²

James Audley, who became sole owner of the barony of Barnstaple in 1343, while the dispute was going on, may have tried to take a stronger line with the townspeople than had been used recently. A surviving roll of 'the court of the community of the borough' held in 1344 shows a more restricted range of activity than that of 1328, though in 1379 the mayor and burgesses imposed a penalty of 40s. on any of their number who took a case against a fellow burgess before a lord or other great man outside the community without permission from them, and between c. 1365 and 1406 mayors are known to have been imposing penalties, for instance, on breaches of the assize of bread.³ Perhaps the lord's officials

delegated jurisdiction as well as the collection of revenue. On Audley's death in 1386 the barony passed under an earlier settlement to the Crown, but the king had already granted the reversion to Robert de Vere, earl of Oxford, before making him marquess of Dublin.⁴ After de Vere's fall in 1388 the manor and borough went to Richard II's half-brother, John de Holand, earl of Huntingdon and later duke of Exeter, and when he was executed in 1400 his widow, Henry IV's sister, and her second husband Sir John Cornwall kept them until her death. They then reverted to her son John Holand (d. 1447), earl of Huntingdon and from 1444 duke of Exeter. His son married Anne, daughter of Richard duke of York, and after his attainder she held the barony until she died in 1476. Her second husband Thomas St. Leger kept it by courtesy of England until he was beheaded in 1483. It then returned again to the Crown.¹ During the century of Holand ownership the burgesses of Barnstaple may have been emboldened by more remote control and ignorance of the past on the part of the seigniorial administration. Whether they were also spurred by prosperity or rather by competition from Torrington in an age of restricted trade is a further question which falls outside the scope of this article.² In any case it was now that they must have forged their earlier charters. This may have happened first in 1445 or in 1478. Either way Barnstaple was at both dates a mesne borough, and the event was presumably a sign of discontent and a spur to future endeavour rather than the cause of an immediate change in the town's position. The exemplification of 1478 was published locally and it is hard to imagine the reaction of the lord's officials to it, unless we suppose that they regarded the charters which were recited as out of date and irrelevant, while assuming - wrongly - that when they had been issued the borough was in royal possession. Meanwhile seigniorial profits from the town, to judge from the inadequate evidence of inquisitions post mortem and from the later bailiffs' accounts, do not seem to have dropped significantly,³ and practical encroachments of power can be traced only gradually. The first surviving accounts of a borough receiver (1389-90, 1394-5) show that the borough took rent from market stalls and from fines and amercements in the mayor's court, but that it paid the steward's expenses at a Michaelmas court and the sheriff's expenses, presumably at his tourn.⁴ To judge from payments made by the receiver to the bailiffs the system of the later fifteenth century was already in operation whereby the receiver acted on behalf of the borough community, and the bailiffs, whether elected by the burgesses or not, on behalf of the lord.⁵ The first suggestion under the new owners

that the burgesses wanted more privileges was the issue of an exemplification of Domesday in 1394 to show that Barnstaple was ancient demesne and its men were therefore toll-free throughout the realm.⁶ Incidentally, if the town's earlier charters had been genuine the burgesses would have been toll-free under their terms. In 1404 the steward arbitrated between the mayor and a burgess who had slandered him, summoning the parties and a jury with acknowledged authority. One of the slanders concerned the mayor's abuse of the assize of bread, so that the steward must have admitted that this was within the mayor's jurisdiction.¹ In 1408-9 Cornwall and the countess of Huntingdon brought a chancery suit against the mayor and burgesses, alleging that they had hindered and restricted the petitioners' liberties since the earl of Huntingdon's death, notably by usurping the assize of bread and ale and keeping the profits, by taking various other dues and fines, and by failing to do suit. The burgesses replied in effect that they had enjoyed all the rights time out of mind, though their admission that the mayor presented the four bailiffs² to the lord's steward and that they were then sworn in suggests a more subordinate condition than their claims might otherwise imply. The suit was settled by a deed allowing the town all the liberties it had enjoyed under Huntingdon, provided escheats and forfeitures were properly investigated.³ The next possible sign of a brush with the lord, excluding the doubtful evidence of the 1445 charter, is a letter from the duke of Exeter to the mayor and burgesses of his town of Barnstaple written in 1457, in which he ordered them to keep their franchises as straitly as they had in his father's time.⁴ In the meantime the borough had apparently acquired a seal by 1416, and by 1474 and perhaps by 1458 was paying a recorder 13 s. 4d. a year.⁵ In the absence of a borough sessions or even of view of frankpledge he seems to have acted as legal adviser to the town.⁶ It may have been about this time that the burgesses were again thinking that the mayor should be a coroner.⁷ A nearly complete series of receiver's accounts for Edward IV's reign reveals an active community, managing the market and shambles, fining bakers, and providing a good deal of miscellaneous entertainment, but the receiver did not account for fair and market tolls, and the profits of the mayor's court did not amount to very much.⁸

After a shortlived grant to Sir Thomas Everingham in 1484 the castle, lordship and manor of Barnstaple were given to Henry VII's mother in 1487.¹ Like most other recent grants, the patent did not specify the borough, but the lady Margaret

certainly held it, and after her death it remained with the Crown until 1557, except while it was held by Henry VIII's illegitimate son the duke of Richmond (d. 1536).² The grant of 1484 referred to the fee-farm of Barnstaple as well as to the borough and in Edward VI's reign the burgesses claimed to hold the borough at fee-farm for £18 a year.³ It is true that seigniorial income in this period was more or less steady around this sum, but nevertheless the borough was not farmed by the burgesses in the traditional way. The accounts were rendered annually by the bailiffs not at Exchequer⁴ but to the lady's, duke's, or king's receivers, along with accounts of other Devon manors. Static as most of the items on the account were, they were separately listed, and the court profits were not fixed. The burgesses were, however, farming the fair by 1495, and in 1545 the mayor, though not so described in the patent, and two burgesses obtained a twenty-one year lease of the market, fair, and 'lathstedes'. It is easy to see that the borough was not farmed but that people may have thought or have wanted to think that it was.⁵ Meanwhile disputes between the town authorities and the tenants of the Barnstaple priory estate reflect similar uncertainties about the boundaries of the town's jurisdiction over the assizes of measures, of bread and ale, and over watch and ward and the collection of taxes.⁶ It was no doubt in this connection that the borough secured an exemplification in 1547 of the thirteenth-century Quo Warranto pleadings, in the belief that these testified to their own and not the lord's rights.⁷

The achievement of a charter of incorporation in 1557 did not at once end all anomalies since a few weeks earlier the whole manorial estate, including the reversion of the market and fair lease of 1545, had been granted to a Warwickshire landowner, Thomas Marrow.¹ Marrow mortgaged the manor to the corporation in 1560, and his son sold his interests in 1565 to Sir John Chichester, recorder of Barnstaple and a local justice of the peace.² In 1566 Chichester transferred his rights to the corporation.³ From now on, although their legal jurisdiction was less wide than they had wanted⁴ or than Edward II's supposed charter had granted, the mayor and corporation were in a position which more or less made sense of their charters. The recorder's position was regularized by the reincorporation of 1595 which provided for his appointment and established a borough sessions of the peace.⁵

It has seemed necessary to describe the constitutional history of Barnstaple in detail so as to show how inconsistent it was with the town's pretended charters

and to explain how the deceits practised by the burgesses created a complicated and anomalous situation. Even so, much remains to be elucidated and probably corrected by local historians. But the story raises issues of more than local interest. Evidently the chancery system of inspection and enrolment was not proof against abuse, and it is reasonable to ask whether other charters may not be spurious, and whether the later middle ages may not have been richer in forgeries of this sort than is usually supposed. Apart from the questions about chancery practice and the efficiency of fifteenth-century administration, both royal and seigniorial, which the history of Barnstaple suggests, there are questions about other boroughs. Medieval historians have begun to take town charters, particularly after the twelfth century, rather for granted, and compared to the relatively unexplored sources of urban social and economic history, they are certainly arid ground. But they are a basic source for any town's history, and if some of them are spurious the fact is of more than diplomatic interest. Ballard pointed out that Totnes, another small Devon borough, had a charter of 1206 confirmed in 1510 which he thought could not be genuine, and of which the greater part was lifted from John's charter to Helston (Cornwall), and that Eye (Suffolk) got John's charter to Hythe confirmed as their own in 1558 by pretending that Heia was the ancient form of Eye.¹ Tait showed how Pembroke in the fourteenth century seems to have improved on its charter from Henry II, and how in the seventeenth century Sunderland appropriated one from Henry III to Warenmouth (Northumb.), while Newcastle under Lyme seems to have interpolated its own Henry III charter.² References of different degrees of vagueness to lost fifteenth- and sixteenth-century charters suggest that Calne and Wootton Bassett (Wilts.) may have made less effectual moves in the same sort of direction as Barnstaple.³ If, as seems possible, other forgeries are still undetected, a survey of borough charters might be profitably carried out by scrutinizing for a start the texts listed in *British Borough Charters* to see whether (a) there is an original, (b) there is a contemporary enrolment, or particularly of course in the case of a twelfth-century charter, a confirmation or reference to the grant fairly soon afterwards, and (c) whether the charter makes sense viewed in the light of the liberties subsequently exercised by the town and of what is known of its general history. If a charter or series of charters fails to pass these tests, it should, I suggest, be viewed with suspicion.

AFTERTHOUGHTS

- p. 699-700, n. 4:1 should have mentioned the doubts expressed by two masters: F.W. Maitland, *Collected papers* (Cambridge, 1900), ii. 331-5; J. Tait, *Medieval English Borough* (Manchester, 1936), 2-3.
- p. 720 n. 1: See also the examples cited by Tait and Maitland, as in previous note, and R.B. Pugh, 'Malmesbury and 1980' *Wiltshire Archaeological Magazine*, 74-5 (1981), 133-6.

¹ Dr. P. Chaplais has helped me much; I must also thank Dame Lucy Sutherland and Mr C. R. Elrington for reading and criticizing drafts and Miss P. Barnes of the Public Record Office and the staffs of the North Devon Athenaeum, Barnstaple, and the Exeter City Record Office for their kindness and speed in producing documents.

² See e.g. *Cal[endar of] Pat[ent Rolls]*, 1338-1340, pp. 497-8; J. Leland, *Itinerary*, ed. L. Toulmin-Smith (1906), i. 170; W. Camden, *Britannia* (1590), p. 138; J. B. Gribble, *Memorials of Barnstaple* (1830), pp. 6-8; B. W. Oliver, 'Barnstaple borough', *Trans. Devon Assoc.* lxii (1930), 269-73.

³ H. Hody, *Hist. of Eng. councils and convocations* (1701), pp. 375-6; Browne Willis, *Notitia Parliamentaria* ii (1716), 308-24; Lord Lyttelton, *Hist. of Henry II*, iii (1769), 226, 412-17. T.H.B. Oldfield (*Repres. Hist. of Gt. Britain and Ireland* (1816), i. 61-68, iii. 299-300) and S. Turner (*Hist. of Anglo-Saxons* (5th edn. 1828), iii. 205) follow Lyttelton. Hallam (*State of Europe during the Middle Ages* (1826), iii. 42, 46-48) agrees with Willis in discounting the town's claims.

⁴ *British Borough Charters*, i, ed. A. Ballard (1913), p. xxvii and later; *ibid.* ii. ed. A. Ballard and J. Tait (1923), p. xxv and later; *ibid.* iii, ed. M. Weinbaum (1943), p. 22.

¹ For the sake of brevity and simplicity the Exeter charters which could not have served as exemplars for Barnstaple charters have been omitted. The next after 1465 of relevant content is dated 1486, too late to have been used. For a full list, see *Hist. MSS. Commission: City of Exeter* (1916), pp. 1-8.

¹ Exeter R.O., charter XIII is a confirmation by Henry III of a grant by Richard of Cornwall: see below, p. 705.

¹ E I was issued at London, and witnessed as E 2, below, with the addition of the citizens of London, who concurred in the grant of E 2.

¹ See R. W. Eyton, *Court, household and itinerary of Henry II* (1878), pp. 6-7, 25, 59; L. V. Delisle, *Receuil des attes de Henri II: introduction* (1909), p. 89.

² Apart from the extra clause and witness and dating clauses, the variations of B2 (as recited in B6 and B7) from E5 are the insertion of *prioribus* and *prepositis* in the address, the use of *ibidem* for *ibi*, *sicut* for *sic*, *confirmavimus* for *confirmamus*, *iidem* for *idem*, *tholon'* for *theloneo*, *eis disturbet* for *eos disturbet*, the omission of *Henrici* once, of *et* twice, and the use of *burgensibus nostris burgi Barn'*, *burgenses burgi predicti*, etc. for *civibus nostris Exoniensibus*, *cives nostri* etc. The same and similar variants occur in the later charters and are not again noted. Several of them (e.g. *ibidem sicut*, *iidem*) are found in recitations of E5 in later Exeter charters. B 7 also omits *faciat* once and has *debitores* for *debitoris* (see n.3).

³ '*Nec quod ullatenus burgenses burgi Barnestapol predicti cum per terram nostram transitum fecerint pro aliorum debito disturbentur nec disturbari permittantur nisi debitores sint vel debitoris illius plegii extiterint.*' This wording does not correspond very closely to any of the clauses of similar effect in *British Borough Charters*, i or ii, or to those in the sources cited for similar clauses in *British Borough Charters*, iii, pp. xxx-lxvii.

¹ See n. 2, p. 703.

² *Rot. Chartarum*, pp. 68-70. The enrolment of E 5 is dated 5 June: *ibid.* 70.

³ Apart from variants like those in n. 2, p. 705, *gratas* is omitted from the phrase *gratas et ratas habentes*.

¹ F. M. Powicke and E. B. Fryde, *Handbook of British Chronology* (1961), pp. 82, 216.

² Variants include: *Haumone*, *Hanmone*, *Anmom* (or *Aumone*), *Hammone*.

³ Exeter R.O., charters XI-XIII; *Cal. Chart. R.* ii. 24–25.

⁴ As recited in B 6 and B 7 it ends: ‘Hiis testibus et cetera. Dat’ et cetera’.

⁵ In the earliest Barnstaple texts (as recited in B 6 and B 7, which also contain a separate exemplification of B 3) B 3 is not recited in B 4 but is replaced by the words ‘ut continetur in principio’. The next clause begins ‘E.[or E’] Nos autem...’ instead of ‘Et nos autem...’.

⁶ Cf. *Abbrev. Rot Orig.* (Record Com.), i. 258.

¹ B 6 has the word ‘note’ in a possibly contemporary hand in the margin beside this clause.

² *Abbrev. Rot. Orig.* vol. i.

³ My discussion of B 6 and B 7 owes very much to the criticism and advice of Mr. P. Chaplais.

⁴ Not recited twice: see n. 5, p. 705.

⁵ Compare the opening clause (‘Inspeximus quoddam transcriptum cujusdam carte domini Henrici nuper regis Anglie tercii post conquestum progenitoris nostri inter recorda cancellarie dudum regum Anglie infra Turrim London existencia’) with that of E 12 (‘Constat nobis per inspeccionem rotulorum cancellarie domini Henrici nuper regis Anglie patris nostri quod idem pater noster litteras suas patentes de confirmacione fieri fecit in hec verba’).

¹ The Domesday entry was exemplified in 1394 and perhaps later: see n. 6, p. 716. For the lords of the borough, see pp. 25–36.

² A. B. and A. Wyon, *Great Seals of England* (1887), pl. XIII, nos. 79, 80.

³ For the hand, cf. E 13; Exeter R.O., charter XXVIII (1463); P.R.O., C 202/H 58/31; C 202/H 63/31, 57. It is unusual to find *Hibernie* and *salutem* in the first line written in full, but for contemporary cases see e.g. C 202/H 60/5, 23a, 43, 59.

⁴ e.g. *Merton muniments*, ed. P. S. Allen and H. W. Garrod (1927), pl. XVIII; P.R.O., C 202/H 58/31; C 202/H 60/3, 6, 31, 41, 44.

⁵ E. Foss, *Judges of Eng.* iv (1851), 360–1; cf. *Cal. Pat. 1422–1452*, *passim* (especially 1422–1429, pp. 379; 1436–1441, p. 245) and *Cal. Close, 1419–1447*, *passim*.

⁶ *Cal. Pat. 1416–1422*, pp. 12–13; 1441–1446, pp. 267–8; *Cal. Close 1441–1447*, pp. 222–3, 229.

¹ Though cf. *Cal. Pat. 1436–1441*, p. 25; *Register of Edmund Lacy*, ed. F. C. Hingeston-Randolph (1909), i. 44, 58, 286.

² P.R.O., C 81/745, 746 (writs of privy seal, 28 Oct.–26 Mar. 25 Hen. VI); C 81/1245 (bills of privy seal, Sept.–April 23 Hen. VI); C 81/1370 (signet etc. warrants, 21–26 Hen. VI); C 81/1373 (signet etc. warrants addressed to abp. of Cant. A–L); C 81/1436 (signed bills, 4 Dec.–15 April 23 Hen. VI); C 81/1478 (signed bills, Hen. VI A.B.); C 81/1546 (council warrants, 23–39 Hen. VI); C 81/1548a, 1662, 1715 (misc. warrants including Hen. VI); E 28/74, 75 (council and privy seal records, 23 Hen. VI); PSO 1/15 (privy seal warrants, 7 June 1444–10 July 1445); E 371/209 (originalia roll, 23 Hen. VI); there is no hanaper account for 23 Hen. VI. Gribble, *Memorials of Barnstaple*, pp 376–8, in his translation appears to give the additional grants of Edward II (i.e. the end of B 5) as if they were made by Henry VI (i.e. new provisions of B 6) and thus implies that a fine was made for B 6. An ordinance of 1422, however, allowed for confirmations without fine; H, C. Maxwell-Lyte, *The great seal* (1926), p. 220. See also pp. 218–20, 342.

³ The likely period is thus too short for palaeographical evidence to be useful: for similar hands at different

dates within it, see n. 3, p. 707.

¹ It is conceivable that B 7 represents not the issue of a slightly improper patent but the improper enrolment of a patent that was never issued. If this was the case B 6 could have served as the direct model, for the only change necessary apart from those normally made in enrolment (since B 7, as an enrolment, has neither the king's name nor the regnal year) was the month, to fit in with the other entries on the membrane. This supposition would, however, imply a more absolute irregularity, or even corruption, in the officials responsible for the rolls, than may be involved in the issue of the exemplification.

² See n. 2, p. 703.

³ The word is too long for the space available.

⁴ P.R.O., C 81/863 (writs of privy seal, 3 Jan.-7 Mar. 1478); C 81/1320 (bills of privy seal, 17 Edw. IV); C 81/1385 (signet, etc., warrants, 10 June 1464-12 Feb. 1478); C 81/1388 (warrants addressed to bishop of Lincoln); C 81/1513 (signed bills etc., 3 July-2 Mar. 17 Edw. IV); C 81/1347 (council warrants, Edw. IV); C 81/1524-8, 1548a, 1662, 1715 (misc. warrants, including Edw. IV); E 28/91 (council and privy seal records, 13-18 Edw. IV); PSO 1/45 (privy seal warrants, 19 Aug. 1477-16 July 1478); E 371/242 (originalia roll, 17 Edw. IV); there is no hanaper account for Mic. 1477-Mic. 1478.

⁵ Miss P. Barnes of the P.R.O. kindly gave me access to an index of chancery clerks. The N. Devon Athenaeum has an index of personal names in the records to 1485.

⁶ D. Drake, 'Members of parliament for Barnstaple, 1295-1492', *Trans. Devon Assoc.* lxxi (1939), 264-5.

¹ N. Devon Athenaeum, MSS. 2015-17.

² P.R.O., E 571/277, m. 92.

³ See p. 709.

⁴ P.R.O., C 56/57, no. 15; there appears to be no original of this (1547) charter, though N. Devon Athenaeum MS. 3963a is an engrossment of different purport granted three days earlier (see below, p. 719, n. 1); C 56/73, no. 3; C 56/85, no. 4 (all as in printed calendars).

⁵ *Cal. Pat. 1555-1557* pp.391-2; N. Devon Athenaeum, MS. 3965; *British Borough Charters*, iii. 22.

⁶ *Abbrev. Rot. Orig.* (Record Com.), i; *Rot de Oblatis et Finibus*; *Cal. Fine R. 1272-1327 Cal. Chancery warrants, 1244-1326*.

⁷ Maxwell-Lyte, *The Great Seal*, p. 363.

¹ The earliest document referring to the bridge which I have found is a deed of 1304: Barnstaple Athenaeum MS. 626. The local antiquary Thomas Wainwright said that there were many much earlier documents about it, but he does not give any examples except for one document which he dates soon after 1281 but which I would tentatively connect with the chancery suit of 1408-9 (see below). This survives only in an eighteenth-century copy: North Devon Athenaeum MS. 2020. Wainwright's compilation of local records (J. R. Chanter and T. Wainwright, *Reprint of Barnstaple records* (2 vols. 1900), serves as a preliminary guide to the borough records which are now housed in the North Devon Athenaeum at Barnstaple, but should be used with caution. It is very haphazardly arranged and the documents are mostly given in English, though it is not always clear whether they are translations or paraphrases, and parts of documents are sometimes omitted without warning. It may be supplemented by *Hist. MSS. Com. 9th Rep. App. I*, pp. 203-16. For the bridge, see also B. W. Oliver, 'Long bridge of Barnstaple', *Trans. Devon Assoc.* lxxviii (1946), 177-91.

² W. G. Hoskins and H. P. R. Finberg, *Devonshire studies* (1952), pp. 190, 194, 218, 223-30.

³ *Crawford charters*, ed. A. S. Napier and W. H. Stevenson (1895), pp. 9, 77; *Anglo-Saxon coins*, ed. R. H. M. Dolley (1961), pp. 146, 172, 177, 180, 181.

¹ H. C. Darby and R. Welldon Finn, *Domesday geog. of S.W. Eng.* (1967), pp. 228, 247-9, 282-3; cf. *V.C.H. Devon*, i. 406-7, 419-20, 423, 429, 454, 467, 517.

² In 1209 the sheriff of Devon accounted for 26s. from the farm of Barnstaple: *Pipe Roll II John* (Pipe Roll Soc. new series xxiv), p. 91. I have not found references to the borough farm in other published pipe rolls.

³ I. J. Sanders, *English baronies* (1960), pp. 104–5; *Cal. Pat. 1381–1385*, p. 115. See also O. J. Reichel, *Hundreds of Braunton etc.* (Devon Assoc. supplement, 1935), pp. 414–17.

⁴ P.R.O., C 133/6/6/3; *Cal. Inq. p.m.* ii, no. 76 is not quite accurate about the castle wall. For the castle, see also *Rot. Litt. Pat. 1201–1216* (Record Com.), p. 157; *Close R. 1227–1231*, pp. 69–70; *1231–1234*, p. 546.

⁵ *Rot. Hundredorum* (Record Com.), i. 63–64; *Placita de quo warranto* (Record Com.), pp. 174–5.

⁶ N. Devon Athenaeum MS. 14; deed of Oliver de Tracy, for whom see Sanders, pp. 104–5.

⁷ *Cal. Chart. R.* ii. 460, v. 35. For Pilton priory, which also claimed foundation by Athelstan, see Dugdale, *Monasticon* (1817–30 edn.), iv. 443. For Pilton see burghal hidage (*Anglo-Saxon charters*, ed. A. J. Robertson (1956), p. 246); H. P. R. Finberg in *Devon & Cornwall N. & Q.* xxiv (1951), 207; N. Devon Athenaeum MS. 2016; for Newport, see M. W. Beresford, *New Towns of the Middle Ages* (1967), 422–3. See also Chanter and Wainwright, ii. 177.

¹ D. Drake, ‘Members of parliament for Barnstaple, 1295–1492,’ *Trans Devon Assoc.* lxxi (1959), 249–70.

² *Pipe Roll 26 Hen. II* (Pipe Roll Soc. xxix), p. 95.

³ *Cat. documents in France, 918–1206*, ed. J. H. Round, p. 462; for the date, see Sanders, pp. 104–5; for Barnstaple priory, see Dugdale, v. 196.

⁴ N. Devon Athenaeum MSS. 432, 433 (Chanter and Wainwright, i. 110, 129).

⁵ N. Devon Athenaeum MS. 833, an eighteenth-century copy of now lost gild rolls (Chanter and Wainwright, ii. 16–35 and J. R. Chanter, ‘Vestiges of an early guild of St. Nicholas at Barnstaple,’ *Trans. Devon Assoc.* xi (1879), 191–212). In 1326 there were 156 burgages: Beresford, p. 68.

⁶ *Ibid.* MS. 530 (Chanter and Wainwright, i. 252–4).

⁷ See *Hist. MSS. Com.: City of Exeter* (1916), p. 406.

¹ *Cal. Pat. 1338–1340*, pp. 497–8; P.R.O., C 143/255/22; two writs were issued before this inquisition was held.

² *Cal. Pat. 1343–1345*, p. 90; P.R.O., C 143/268/29.

¹ *Cal. Pat. 1343–1345*, p. 290; P.R.O., C 143/272/17.

² See works cited in note 3; Gribble, *Memorials of Barnstaple*, 212–13, 329–46; Chanter and Wainwright, i. 137–49.

³ N. Devon Athenaeum MSS. 533, 536, 4142 (Chanter and Wainwright, i. 159–60, 169–71, ii. 47–51). MS. 532, described by Wainwright (*ibid.* i. 133, 171) as a mayor’s court roll, appears to be a coroner’s roll, though the heading gives the name of the mayor in office at the time. It bears a note in a probably fifteenth-century hand: ‘A byll how the mayor of Barstabyll ys a croner withyn our lyberte of Barnstabyll.’

⁴ *Cal. Pat. 1381–1385*, p. 515; *1381–1385*, p. 515; *1385–1389*, p. 115; *Cal. Inq. misc.* v, no. 113.

¹ *Cal. Pat. 1385–1389*, p. 495; *1399–1401*, p. 550; *1429–1436*, pp. 114–15; *1461–1467*, pp. 7, 10, 104; *1467–1477*, pp. 32–3, 137–8; *Cal. Close, 1413–1419*, pp. 483–5; *1422–1429*, pp. 273–4, 283–5; *1476–1485*, no. 15; P.R.O., C 138/8/23a; C 138/21/50; C 139/24/32; C 140/53/36; *Rot. Parl.* (Record Com.), vi. 242–4; G. E. C[okayne], *Complete Peerage*, ed. Vicary Gibbs etc., v. 195–216.

² See Hoskins and Finberg, *Devonshire studies*, pp. 224–47.

³ *Cat. Inq. misc.* v, no. 113; P.R.O., C138/8/23a; C138/21/50; C139/24/32; C 140/53/36; C 142/24/1; SC6/Hen. VII 1234–5; SC6/Hen. VIII 6721–31, 495–512; SC 6/Edw. VI 121–6; SC 6/P. & M. 75–80. SC

6/826/8, 9 for Henry VI's reign are not accounts for the main manor and borough.

⁴ The sheriff was holding his tourn here in the fifteenth century and at least until 1568–9; N. Devon Athenaeum MSS. 2019, 3972, nos. 4, 8, 9, 59, 61, 75.

⁵ N. Devon Athenaeum MS. 3972, nos. 1, 2.

⁶ *Cal. Pat. 1391–1396*, pp. 364, 370; N. Devon Athenaeum MS. 537 appears to be a contemporary copy of a fifteenth-century writ (the king's name is Henry) to the same effect, MS. 1133 includes eighteenth-century copies of this writ and of a writ of *certiorari* to find out whether Barnstaple had ever been ancient demesne. The eighteenth-century transcriber attributed this latter writ to Edward I. The originals are now apparently lost.

¹ N. Devon Athenaeum MS. 441 (Chanter and Wainwright, i. 135). *Cf.* MSS. 536, 4142 (*ibid.* i. 159–60, ii. 47–51).

² There were generally two bailiffs and one receiver: see bailiffs' accounts cited in n. 3, p. 716 and N. Devon Athenaeum MSS. 2003–19, 3972 (receiver's accounts).

³ N. Devon Athenaeum MSS. 1980–4 (Chanter and Wainwright, i. 234–7). MS. 2020 (*ibid.* pp. 114, 117–25) looks like a copy of depositions in this suit.

⁴ N. Devon Athenaeum MS. 1138 (18th-cent. copy); Chanter and Wainwright, i. 150.

⁵ Chanter and Wainwright, ii. 176; the original matrix which Wainwright claimed to have seen is apparently no longer among the borough records. N. Devon Athenaeum MSS. 2013–19, 3972, no. 5; the 'recorder' mentioned in the earlier bye-laws in Chanter and Wainwright, i. 85, is a misreading of MS. 1599.

⁶ N. Devon Athenaeum MSS. 2003–19, 3972; the borough was first granted view of frankpledge in 1557. For the sheriff's tourn, see n. 4, p. 716.

⁷ See n. 3, p. 715.

⁸ N. Devon Athenaeum MSS. 2003–19.

¹ *Cal. Pat. 1476–1485*, p. 429; 1483–1494, pp. 154–5 (P.R.O., C 65/565, m. 21).

² Accounts cited in n. 3, p. 716; *Cal. Pat. 1555–1557*, p. 540; 1563–1566, no. 2076.

³ P.R.O., Sta. Cha. 3/3/9.

⁴ I do not know what the small yearly Exchequer fee or the fifteenth-century payments for making the mayor's accounts in Exchequer (N. Devon Athenaeum MSS, 2003–19, 3972) were for unless they were connected with presenting the mayor: T. Madox, *Hist. of Exchequer* (1711), pp. 606–10, and *Firma Burgi* (1726), p. 10. *Cf. Records of Norwich*, ed. W. Hudson and J. C. Tingye (1906–10), ii. 47. In the first and second pipe rolls of Henry VII (E 372/331–2) Everingham accounted for £15 rent which covered the castle and borough of Barnstaple, the castle and manor of Torrington and the 'feefarms of Torrington and Barnstaple'. I have not found any reference to the fee-farm of Barnstaple in the third pipe roll of Henry VII or the first or last of Henry VIII (E 372/333, 355, 392).

⁵ Bailiffs' accounts cited in n. 3, p. 716; N. Devon Athenaeum MS. 3972 (receiver's accounts); P.R.O., C66/762, m. 7; C 142/24/1; SC 11/162, a valor of 1526–7, omits court profits. *Cf.* also the rent reserved when the corporation acquired the manor in 1566: N. Devon Athenaeum MSS. 1941, 3972, nos. 72, 77. For the respective rights of king and burgesses to the market and fair tolls, see N. Devon Athenaeum MS. 444 (Chanter and Wainwright, ii. 11–12) and P.R.O., C 47/55/8/284.

⁶ P.R.O., Sta. Cha. 2/3/289–99; Sta. Cha. 2/13/88–91; Sta. Cha. 2/23/251; Sta. Cha. 3/3/9, N. Devon Athenaeum MSS. 445, 553 (Chanter and Wainwright, i. 158; ii. 39).

⁷ N. Devon Athenaeum MS. 3963a (Chanter and Wainwright, i. 220–2, 224); I have been able to find an enrolment of these letters patent, but it seems unnecessary to assume therefore that they were forged. The confirmations of 1554 and 1560 repeat not (as Chanter and Wainwright, i. 222) these letters patent, which are dated 20 Nov. 1547, but the *inspeximus* (dated three days later and enrolled) of Henry VIII's charter: P.R.O.,

C56/57, no. 15; C 56/73, no. 3; C 56/85, no. 4.

¹ *Cal. Pat. 1555–1557*, pp. 391–2, 540; W. Dugdale, *Antiquities of Warm.* (1730 edn.), ii. 981, 1001–2. For the negotiations for incorporation, see N. Devon Athenaeum MSS. 1135, 1988, 1990 (Chanter and Wainwright, i. 224–7, 7)- Other examples of incorporation of ‘manorial boroughs’ were Chippenham (Wilts) in 1554: *Wilts, boro. records* (Wilts. Arch. Soc. Records Branch, v), 4–5, and Tiverton (Devon) in 1615: J. Youngs, ‘King James’s charter to Tiverton, 1615,’ *Trans. Devon Assoc.* xcix (1967), 147–62.

² N. Devon Athenaeum MSS. 1934, 1956, 1958–9 (Chanter and Wainwright, i. 239–41); *Cal. Pat. 1563–6*, no. 2076; B. M. Lans. MS. 1218, f. 62v (*liber pacis*, 1561). Chichester was recorder in 1555 and 1561–2 and a different recorder is named in 1568–9 just after his death: N. Devon Athenaeum MS. 3972, nos. 61, 68, 75, 77.

³ N. Devon Athenaeum MSS. 1934, 1940–1, 1943–6 (Chanter and Wainwright, i. 239–47); *Cal. Pat. 1569–1572*, no. 1215.

⁴ N. Devon Athenaeum MSS. 1988, 4027 (Chanter and Wainwright, i. 226–7, 172).

⁵ N. Devon Athenaeum MS. 3965. Cf. MS. 3973, which contains the earliest sessions records (1617). The earlier items in this volume, like MSS. 2025, 3329, do not appear to be, as listed, records of sessions of the peace.

¹ *British Borough Charters*, i, pp. xxxiv–xxxviii; the first confirmation was made in 1505, not 1510: *ibid.* iii. 27–28.

² J. Tait, *Med. Eng. Borough* (1936), pp. 349–50; *British Borough Charters*, i, pp. xlv, xlvii–xlviii.

³ *Wilts, boro. records* (Wilts. Arch. Soc. Records Branch, v), 1, 103: I am grateful to Mr. J. Campbell and Miss E. Crittall respectively for these references.

XIII

1483: GLOUCESTER AND TOWN GOVERNMENT IN THE MIDDLE AGES

The obvious and appropriate way to start my talk is by congratulating you. I congratulate you on the five hundredth anniversary of your charter and on choosing to celebrate it. It is not, if you do not mind my saying so, that Gloucester is exceptionally old among the county towns of England or that the charter of 1483 was very exceptional among fifteenth-century town charters. That does not in my view detract from the importance or pleasantness of the occasion: Gloucester and its charter are both good and representative examples of good and interesting phenomena and therefore worth a bit of corporate civic celebration. What makes the occasion unusual and pleasing to an historian is that you are celebrating an event of real significance in your history, and that your celebrations include a real effort to find out what happened and why it was significant. Some towns, I am afraid, choose to boast of fictitious or semi-fictitious events — mythical foundations, or imaginary charters supposedly granted by impossibly early kings, and do not seem to worry about the nonsense they make of history. Others which resist the temptation to improvise the past are unlucky in not happening to have any single charter that is particularly worth commemorating, but just a series, each saying very little that is different from the one before and providing only a rather dreary set of minor anniversaries, none of which is really worth celebrating.

1483, however, marked the biggest change for 300 years in the constitution of the town of Gloucester: I refer to it throughout, you may notice, not as a city but as a town or borough. Borough in medieval terms meant very much the same as town: its constitutional significance was very loose. ‘City’, on the other hand, was normally reserved to towns which were bishops’ sees, so Gloucester did not become a city, in the usage of the time, until 1541, when the former abbey became a cathedral. Before that, in 1483, the town — or borough — got some useful new privileges and an amended and more clearly defined constitution. In order to appreciate what this meant we need to go back to see how the government of the

town had developed since the twelfth century, and we also need to do something more difficult. We must try to forget the political arrangements and language and ideas of today and think ourselves through the words of the charter into the minds of the medieval burgesses (not citizens) of Gloucester and see what they expected of their municipal government, why they wanted a new charter, and what was the point of its various provisions.

During the twelfth and thirteenth centuries the kings of England granted many towns a measure of self-government. Generally speaking most of the larger towns, including most of the county towns, like Gloucester, secured what was called the 'farm' (or by the fifteenth-century the 'fee-farm') of the borough: that is, the right to appoint their own officials who would then be responsible for paying over the town's dues and taxes to the royal exchequer each year. That did not exempt the town from fairly frequent interference from the central government: something very like the present-day complaints of local councillors and officials about Whitehall could have been heard in the guildhalls of medieval England, and rather fiercer language was used in the royal letters they received than, I imagine, appears in most of the letters from Whitehall today. Nevertheless, though the grant of 'the farm of the borough' did not mean total independence, it did mean that townspeople henceforth elected their own officials and councillors freely, and generally looked after their own everyday affairs. The chief reason why they valued this privilege was not that it gave them the right to consult together and act corporately. They already had that: all government, whether of towns or any other units of government, was supposed to be conducted through meetings or courts which dealt with political, administrative, and judicial matters, all mixed up together. Normally a representative of the king or lord would preside — in the case of Gloucester, the king's reeve — but decisions and judgements were supposed to be made by a consensus of the more important members of the community, who were supposed to represent the whole. The advantage of getting the 'farm of the borough' was that now the townsmen had more freedom of decision in their meetings: they chose their own officers who would lead their collective deliberations, and they could hold meetings as and when they wanted, raise money for themselves, and spend it how they liked — more or less. Above all, their officers could represent them in dealing with the central government and could bargain on their behalf about dues and taxes. Bargain is the key word: the whole system involved a great deal of negotiation. It could suit a king very well to delegate local authority direct to local communities and to allow them a good deal of independence, provided that they collected and paid over royal taxes and

generally behaved in a reasonably law-abiding and obedient way. Sometimes therefore towns secured privileges with very little trouble. Sometimes, however, depending on the incalculable — and to us, usually unknowable — combination of political pressures, personalities, and local circumstances, a bit more effort was needed — oiling some palms at court, maybe, or even a spot of rebellion and rioting.

Surviving medieval records are generally too formal and gnostic to tell just how and why individual towns achieved their successes, but, for Gloucester they are just good enough to reveal an outline, if rather a hazy outline, of the main stages by which its government developed — or rather they are good enough to reveal it to people as expert and indefatigable in reading them as the staff of the *Victoria County Histories*. You have already heard Dr. Herbert's lecture, so you will appreciate how much he knows about the town. I have to confess that the account I am about to give you draws heavily on the draft he has lent me of the chapters which will deal with the government of the medieval town in the *V.C.H.* volume on the city. When that comes out — I hope in not too many years from now — you will be able to check what I have said against the details and against a full battery of references to the original documents.¹

The burgesses of Gloucester, like those of many other towns, secured their first charter from King Henry II in the mid-twelfth century. Like most of his charters to towns, however, Henry's charter to Gloucester was fairly limited in scope: it allowed them to have the same freedom from tolls as the citizens of London and Winchester, and to use the same legal procedures in their courts, and that was all. Later in his reign, however, from 1165 to 1176, the town's annual dues were paid into the royal exchequer separately from those of the rest of the county, and it looks as if the reeve who paid them was in effect doing so as the representative of the burgesses rather than as the king's servant. Maybe the position was not quite clear enough for the burgesses, however, because in 1170 some of them were slapped down and fined for forming a 'commune' — a word commonly used at the time to describe an association formed to campaign for collective rights. Six years later Gloucester was back under the sheriff — though we may note that the burgesses still accounted for some of their dues collectively and not through him. They must meanwhile, of course, have still been acting collectively under him in their town courts and assemblies. Anyway, like many other towns, they did better out of Henry II's two sons than out of the father. Richard I formally granted the 'farm of the borough of Gloucester' to its burgesses by charter, and in 1200 King John, in return for 200 marks (a mark was two-thirds of a pound), confirmed the

grant and added various other privileges, like having all lawsuits about property in Gloucester, or about debts incurred there, tried within the town.

Just (we may feel) to make life more complicated for historians, John's charter refers first to 'our burgesses of Gloucester' and later to 'our burgesses of Gloucester of the merchants' guild'. Historians have tied themselves into knots over the possible distinction between burgesses and guildsmen, borough and guild. The general consensus seems to be that a merchant guild was generally a rather restricted and élite group, which stood for the interests of the richer townspeople against the interests of the rest. I am not sure that is right. In certain circumstances it might be, but it is clear, I think, that at Gloucester, as in many other towns, the guild was simply the association or body through which the town as a whole organized the commercial side of its affairs. The thirteenth-century municipal seal was inscribed 'Sigillum burgensium de gilda mercatorum Gloucestrie' — the seal of the burgesses of the guild of merchants of Gloucester — and in the fifteenth century those who became burgesses were sworn in as burgesses of the merchants' guild. The symbiosis of the two bodies may also explain a slight uncertainty about the relationship between the Boothall, off Westgate Street, and the guildhall. One thirteenth-century deed suggests that they may have been separate buildings, though standing close together, but more often, as I understand, the documents suggest that Boothall and guildhall were one and the same: a single building where town business of all sorts was conducted. Confusing as all this may seem to us, it caused little difficulty at the time, because medieval law allowed people to be very vague about their collective activities, about which people belonged to which group, or about which of their several capacities they were acting in at any given moment. Moreover, even the obvious fact that many inhabitants of the town may not have been traders at all would not have worried them: the leading burgesses whom everyone would expect to be the chief decision-makers and rulers of the town probably would be traders, and they were supposed to represent the interests of the whole community. This reliance on consensus is reflected in the final clauses of the 1200 charter. Here the king granted that the burgesses should by common consent choose two of the more lawful and discreet from their number to be reeves, who, so long as they behaved themselves, would not be removable except by consent of the town, and four of the more lawful and discreet to be coroners — an office which had much wider duties than it has today.

It was within the loose framework of this charter that Gloucester was governed until 1483. Apart from a short period in the early thirteenth century when a mayor

was somehow grafted on to the local government hierarchy, the two reeves, or bailiffs as they came to be called, were in charge, apparently subject to annual election though often serving for three or four years or even longer. By the mid-fourteenth century there were also four annually elected stewards who looked after corporate funds, and we read too (or the *V.C.H.* editors read) of other officials who served the town at a humbler level: servants or under-bailiffs to empanel juries, summon defendants, and keep the prison; clerks to keep the records; and porters to keep the gates. All these are recorded because they were paid, but paid officials did not multiply as fast in medieval local government as in some later ages, because an enormous amount of work was done by the burgesses themselves without any pay: not just giving up their free time to serve on official councils and committees, and in voluntary societies and organizations, like their successors today; but assessing and collecting taxes, surveying municipal property, inspecting public works, and performing a host of other duties that are now too technical and complicated for any but fulltime career officials.

It was a very 'participatory' sort of government, but that does not mean that it was — or was meant to be — democratic. The bailiffs and coroners were elected, but that did not necessarily mean that they were elected by the equal votes of equal individuals, let alone that all the inhabitants of the town were electors. The right and duty to take part in the government of the town belonged only to the burgesses. Just who counted as a burgess we do not know for sure but by analogy with other towns I think we can say pretty definitely that the inhabitants of Gloucester would have taken it for granted that the burgesses would be resident householders who paid their share of the town's dues and taxes. That means that wives and children, living-in servants, and other dependants would be excluded as a matter of course, but so, apparently, were some householders. At Gloucester there were people called portmen, some at least of whom seem to have been householders resident in the town, who apparently ranked as members of the town community but not as full burgesses. By the fifteenth century you could become a burgess of Gloucester by making a down payment, or by serving an apprenticeship in the town, or by being the son of a burgess, and the names of those thus admitted to the franchise were sometimes written down. Yet at no time, either in Gloucester or so far as I know elsewhere, were full registers of burgesses kept. To us that seems extraordinary, but I think that we can begin to understand it if we recognise that medieval townspeople started from an attitude to government and politics which was in some ways completely different from ours.

All the collective and consultative practices which were so important in their

government were designed to represent not a collection of individuals with equal and separate rights, but a community of different ranks, bound together by ties of due and lawful order and hierarchy. It was seen as the duty as well as the right of the richest and most senior burgesses to take the lead in government and to assume the heaviest responsibilities, though they were supposed to consult with the other burgesses when necessary. In consequence it did not really matter exactly who attended or had the right to attend meetings, provided that those who did so were solid and respectable people and that, when particularly important matters were to be discussed, a particularly large and representative number would turn up. Just as it was hoped that the 'more lawful and more discreet' would represent their humbler fellows fairly and would judge between them justly, so it was hoped that honest and wise men would agree about what was fair and just. Everyone knew, of course, that all men were sinners and that some were fools, so in practice they did not really expect to attain to the ideal of unanimity very often. That being so, consensus was second best to unanimity, with numerical majorities a poor third. To them a soggy consensus seemed better than a neat majority partly because it evened out differences of seniority and status: in reaching a consensus the opinion of the most respected participants — who were almost bound to include, and rightly include, the rich and powerful — would be especially influential. This explains, I think, why it was that on the rare occasions when townspeople tried to define the qualifications for the burgess franchise they were not primarily concerned about the political rights it entailed. What they were concerned about were the legal and economic privileges which the burgesses of Gloucester of the guild merchant enjoyed under their charters: freedom from tolls at Gloucester and elsewhere, and the right to have various sorts of law-suit tried only in their own courts. These rights were valuable, and maintaining them took both time and money. They therefore belonged only to fully paid-up members of the town community. That did not mean that only burgesses could trade in the town at all: apart from the portmen, who probably, in return for their rather lower entry fees, enjoyed more restricted trading rights than the full burgesses, merchants from elsewhere came to buy and sell goods, while country people brought in food to sell to the townspeople. All of these outsiders however, had to pay tolls each time or an annual composition fee instead.

Against this background we can imagine Gloucester being run between 1200 and 1483 by the bailiffs and other officials through weekly meetings of the court, and perhaps other meetings as well, mostly held at the Boothall. Most of the time there would be only a relatively small number of burgesses present and most of

them would be those hopefully described in the 1200 charter as the more lawful and more discreet: those rich enough to be able to leave their businesses, public-spirited enough to spare the time, and, maybe, some of them just the sort of people who like attending meetings and running things. Whether they ever constituted a formal council is unknown: some towns set up councils of twelve, or of multiples of twelve, to ensure that the officers had regular advice at hand, but some relied on the general body of burgesses to supervise the officers. Perhaps at Gloucester the jury which reported to the specially important sessions of the court which were held twice a year acted as some sort of council. In any event the normal practice should have been that once or twice a year, perhaps at these big court sessions, an extra full assembly of burgesses would meet, perhaps in the greater space of the street outside the Boothall, to hear the officers present their accounts and to elect new ones.

Human arrangements seldom work quite as they are meant to. The natural result of the respectful and hierarchical tendencies of that time was that government tended to be left to inner groups, and those inner groups sometimes succumbed to the temptations of their position. Their position *was* tempting, because their powers were wide and their tasks were complex. The regulation of a town's trade and industry involved trying to reconcile the interests of employers and employees, producers and retailers, retailers and consumers, visiting merchants and domestic producers. Considering that even with the help of economists and other experts modern governments find this sort of thing very difficult, it is not surprising that the rulers of medieval towns often got in a muddle and that recriminations flew around. In such circumstances it must have been tempting for leading townsmen, whose own private interests were inevitably involved, to ignore criticism and just do the best they could for themselves. Since they were also the people who did justice, dealt with complaints, and assessed and raised rates and taxes, and since the habit of trusting the 'more lawful and more discreet' was so ingrained, it was very easy for town governments to become corrupt. That seems to be what happened at Gloucester during the thirteenth century. In the 1270s one of the burgesses who served repeated terms as bailiff seems to have been among those who were accused of 'forestalling' — that is, buying up provisions (in his case fish) before they reached the open market. In 1290 the 'community of the town of Gloucester' complained to parliament that the powerful men of the town had often levied taxes from them without cause and, it was implied, had put the money they raised to improper uses.

We do not know what response was made to these complaints but, to judge from

what is known of similar troubles elsewhere, it probably involved drawing up stricter rules to ensure that accounts would be regularly submitted to full and open meetings, and that elections would be regularly and openly conducted. So far as I know, no one in medieval times seems to have thought that it would help to change the structure of government radically. They continued to think that the best fitted to rule were the rich, and that if rulers did not succeed in reconciling all interests justly, that was not because of any inherent conflict of interests but because of sin. Before we conclude that this was naive of them, we ought to notice that during the later middle ages, as rules were elaborated, and also, I think, as civic consciousness developed accordingly, their own remedies seem to have been working. Dangerous as it is to draw deductions from negative evidence in medieval history, it is worth noticing that, despite the growing volume of surviving records, we still have nothing from the fourteenth and fifteenth centuries which corresponds with the complaints of 1273 and 1290. I do not suggest that everyone who held office in late medieval Gloucester was impeccably and selflessly honourable and just, but we have no reason to suppose that any of them behaved in the corrupt and oligarchical way that some of their thirteenth-century predecessors had done.

What the evidence of the municipal records, as recounted by Dr. Herbert, suggests to me is that by the fifteenth century the bailiffs, stewards, and leading burgesses of Gloucester were becoming increasingly busy with all sorts of apparently public-spirited activities. In 1398 they had secured a charter which made the bailiffs into justices of the peace and slightly enlarged their jurisdiction in commercial cases. Meanwhile they were undertaking public works like repairing the walls, paving the streets, and building new mills on the river, and in 1438 they concluded an agreement with the local Franciscan friary to tap the friary's water-pipes so as to provide a public water supply. In order to pay for all this the town's financial officers, the stewards, could draw on the rents of an increasing amount of communal property. Apart from corporately owned buildings and lands, whose rents went to the common funds, the town by now also held other property in trust for hospitals and other charitable purposes. There was plenty for the bailiffs and stewards to do and, so far as we know, they were doing it fairly well.

Not that everything in the fifteenth century was perfect. Conditions in the country at large were very different from those in the days when Gloucester secured its first charter from King John and had its fee-farm fixed. The population of England had dropped dramatically in the fourteenth century and patterns of

trade were changing. As a result a good many towns were smaller both in population and total wealth, and some of them complained loudly about having to pay the fee-farms and taxes that had been fixed in palmier days. Just what this tells us about their prosperity is difficult to judge: in some cases public poverty — or the poverty of the particular funds from which the fee-farms were traditionally paid — seems to have been compatible with a fair amount of private affluence.² How far that was the case at Gloucester Dr. Herbert may have been able to guess, but the town certainly petitioned for a reduction of its fee-farm in 1447. Financial worries are likely to have been an important motive for asking for a new charter in 1483.

Here, however, we are, as usual, in the realm of conjecture. We do not know anything about the negotiations for the charter except what can be deduced from its text and from what happened immediately afterwards.³ The rest of my lecture will therefore consist of my deductions from that evidence. One preliminary point should be made: any charter to a town was granted in response to a request from the town. Political pressures might determine a king to grant or refuse the request, but the details of the grant, provided that they fell within the range which was acceptable to him and his advisers, would be of little concern to the king. They would reflect what the town asked. That is why I deduce that the burgesses of Gloucester were feeling a financial pinch - or at least a corporate financial pinch — in 1483: for the charter reduced their fee-farm from £65 to £20. Moreover, I suspect that a second provision of the charter also reflects financial concerns: that is, the making of Gloucester into a separate county, to which was added a sizable tract of neighbouring countryside, comprising the hundreds of Dudstone and King's Barton. This, however, was not desirable only for the additional income it would bring to the town and retain within it. Bristol had been made a separate county in 1373 for the practical reason that it lay on the borders of Somerset and Gloucestershire, so that its officers and inhabitants had to deal with two sets of county officials some distance away. For a county town such reasons did not apply, but Bristol had started a fashion, and by 1483 ten more grants of county status had been made to towns, including half a dozen county towns. There were municipal Joneses to be kept up with in fifteenth-century England.

Two other motives often prompted townsmen to ask for new charters at this time, and both apply to our case. Since the time of the first town charters legal learning and the legal profession had developed a great deal, and the law had consequently become more complex. Lawyers were beginning to worry about the

corporate ownership of property and the problems which it could create for towns whose charters had been made in an age of legal innocence, when any group at all could own property and act collectively at law. Some towns were therefore finding it prudent — and their lawyers were no doubt finding it profitable — to have their right to own and manage municipal property explicitly set out in a charter. It looks as if that was the case at Gloucester, for the 1483 charter declares the burgesses a corporate body with the right to hold property and to sue and be sued in any court. One might therefore call it a ‘charter of incorporation’, but that is a bit misleading; Gloucester had been acting as a corporation for centuries and the clauses in the charter which declared it one were a precautionary afterthought, not a legal necessity.

The second common reason for wanting a new charter in the fifteenth century was that the authority of a royal charter could be a good way of making changes in a town’s constitution. Change might be needed in order to end a conflict, in which case royal authority would help to overcome the resistance of the defeated party; or it might be simply that immemorial arrangements were being changed and resistance was feared from the more conservative townspeople. The constitutional provisions of the 1483 charter do not look as if they were designed to resolve conflict, and there is, as I have said, no evidence that there had recently been any at Gloucester; but they do look as though they were designed to bring the town’s constitution up to date. Some other quite important towns, like Worcester, for instance, were still ruled by pairs of bailiffs, and some still had no formal councils, but those arrangements were beginning to look a little old-fashioned as others went over to the alternative constitution of a mayor, aldermen, and common council on the London model. That was what the ruling burgesses of Gloucester had evidently decided to do. At the same time as turning the two bailiffs into joint sheriffs of the new county, the charter replaced them at the head of the municipal hierarchy by a mayor, before whom a sword might be ceremonially carried in the town, and twelve aldermen. The charter did not expressly provide for an outer or common council in addition to the aldermen, but as a common council of forty (the officers, aldermen and 22 others) was in existence a year later, that was probably intended to be part of the package. Long and detailed as fifteenth-century charters were in comparison with those of the twelfth, they still had some surprising gaps: their form depended on what local people thought of and asked for.

In this case it is not at all clear that the local people had thought out all the possible implications of the arrangements they made. The first mayor and aldermen were to be elected by the burgesses, but thereafter the aldermen were to

serve for life, filling vacancies by co-option, while mayors were to be elected each year by the aldermen and twelve other of the more lawful and discreet of the burgesses. Nothing was said about the way these extra twelve, or of course the unmentioned council, were to be elected. This vagueness, combined with the initial popular elections, suggests to me that the framers of the charter were not intending to restrict participation in government by the burgesses at large. I reckon that motives can be more accurately deduced from plans for the immediate future than from those for further off, for the long-term implications of human arrangements are seldom as clear to people at the time as to historians afterwards. If the new constitution had been deliberately intended to introduce a 'closed corporation' it would not have started with open elections or left so many loopholes for popular participation in the future. This part of the charter, therefore, confirms the impression that, so far as we know, the government of Gloucester was reasonably harmonious and efficient in the years leading up to 1483. The town authorities apparently felt no need to spell out safeguards against popular discontents or revolts any more than against official corruption or oppression. The remaining clauses of the charter — the appointment of a coroner for the new county, the position of the mayor and aldermen as J.Ps., the safeguarding of the toll-freedom of traders from Tewkesbury in Gloucester, and so on, need no special discussion. They all seem to me quite straightforward and comprehensible.

The leading burgesses of Gloucester in 1483 had not only been — apparently — happy and efficient in running their town so far. They were now — apparently — happy and efficient in their negotiations with the central government — unless, of course, they had originally wanted a lot more than the charter actually gave them. But they could hardly have hoped for more on the financial front. Richard III not only remitted over two-thirds of the fee-farm, but granted the whole charter for nothing, because of 'the good and faithful actions of the bailiffs and burgesses in causes of particular importance to us' — that is, to him. Whether this refers to the help Gloucester had given to his brother Edward IV against the Lancastrian army in 1471, or to more recent help in his own reign, is unknown, at least to me. By September 1483 Richard had enough troubles of his own, I suspect, to be effusively grateful for support from anywhere. At any rate on 2 September 1483 Gloucester got its charter — though at this stage I should perhaps point out that strictly and pedantically speaking it was not actually a charter so much as letters patent. By this date the sort of documents which were originally called charters were going out of use: they were officially discontinued soon after in 1516.

Letters patent came to the same thing and Gloucester's letter patent constituted a handsome grant. It reduced the town's financial liabilities, extended its jurisdiction and therefore its income, safeguarded its property, increased its civic dignity, and provided the outline of a more formal and regular system of consultation and election. How all this was to work in practice and how long the apparent harmony of 1483 was to last I leave to Peter Clark to tell you.

NOTES

1. Pending the publication of the *V.C.H.* for Gloucester, there is an English summary of the charters in W.H. Stevenson, *Calendar of the records of Gloucester* (Gloucester, 1893), 1-48. A fuller account of my interpretation of medieval urban history is given in S. Reynolds, *Introduction to the history of English medieval towns* (Oxford, 1977) and of the political ideas behind it in 'Medieval urban history and the history of political thought', *Urban History Yearbook* 1982, 14-26.
2. On this controversial subject see e.g. R.B. Dobson, 'Urban decline in late medieval England', *Trans. Royal Hist. Soc.* 5th series, xxvii (1977), 1-22; S Reynolds, 'Decline and decay in late medieval towns', *Urban History Yearbook* 1980, 76-8; A.R. Bridbury, 'English provincial towns in the fifteenth century', *Economic Hist. Rev.* 2nd series, xxxiv (1981), 1-24.
3. There does not appear to be any petition or warrant for the charter in the Public Record Office. I have searched PSO 1/56 and C 81/886,1327,1392,1529,1531 for warrants and no petition appears in the list of SC 8.

AFTERTHOUGHTS

- p. 46: On fifteenth-century prosperity: *Victoria County History of Gloucestershire*, iv, ed. N.M. Herbert (Oxford, 1988), 35-7.

XIV

Medieval urban history and the history of political thought¹

One of the problems of urban history is the fearsome range of expertise that the urban historian is supposed to appreciate, if not master. Belaboured, rightly, by archaeologists, geographers, and architectural historians, we have begun to open our eyes to the evidence of the physical environment of medieval towns, but that is not the half of it. In order to understand urban institutions one needs to be a religious historian, an economic historian, a legal historian; and if one were ever to make sense of everything that is included in the 'social history' of towns, then social anthropology, historical demography, and sociology are only three of the battery of foglamps that would be needed to penetrate our cloud of unknowing. The subject which I now wish to add to the list of those we are supposed to cover does not even have the attraction of sounding new and modish and exciting. The history of political thought has, after all, formed a part of undergraduate history courses in this country ever since they began, and it is traditionally one of the least popular and least satisfactory parts of them, especially for the sort of students who may go on to be interested in urban history: those who relish the exact, the local detail, the reality of topography, the ability to connect the documents of the past with visible phenomena in the present.

Nevertheless I think that we neglect the political and social thought of the middle ages at our peril. No one would dream of writing about the churches of a town without some attempt to appreciate medieval religious ideas, or about medieval trade and industry without some grasp of the appropriate technology, yet it seems to me that much discussion of the constitutional, political, and social history of medieval towns takes place with precious little consideration of the social and political values of the age. Modern urban history started in the nineteenth century, both here and in other parts of Europe, as a reflection and by-product of contemporary struggles for municipal reform and popular government.

In those circumstances it was not surprising that medieval townsmen should be cast in the role of middle-class, urban liberals struggling for representation and popular government against the oppressions associated with the *ancien régime*, and that the internal conflicts of medieval towns should be seen in terms of popular movements against the sort of corrupt oligarchs who were castigated in the Municipal Corporations Report of 1835. Since then some of the cruder comparisons have been modified, but too often, it seems to me, nothing very convincing has been put in their place. One sometimes get the impression that medieval townspeople conducted their affairs in a moral and political vacuum in which their only motives were those of rational self-interest, based on a rather crude kind of economic determinism. But no one lives in a moral vacuum: however much people fail to live up to the principles of their society, it is those principles to which their values must be related, not the principles of another society or time. Everything that we know about the structure of medieval industry and trade, and about the ineffectiveness of medieval economic analysis and policy, makes it hard to believe that medieval townsmen were conscious of their economic interests in the way that we would be - whether we are Marxists, anti-Marxists, or soggy moderates. Their conflicts fit poorly into any of the appropriate nineteenth- or twentieth-century categories.

The unreality of much modern discussion is illustrated, I suggest, by the way that several of its key words - patrician, craft-guild, oligarchy - are not medieval words at all, whether in Latin or the vernacular. Of course it is not essential to use the same words but we should be aware of the dangers of not doing so. If the words are strange to the age are the concepts which they represent also strange? I suspect that many of them are, though it is hard to be sure because people who use the words are often cagey about defining them. My suspicions are confirmed by the way that other key words which are genuinely medieval, like borough, commune, or guild, are also often used in the literature in a way which makes the concepts they imply look equally anachronistic.²

I propose to try to justify these accusations, and show how I think that a closer look at medieval political ideas can help in our understanding of medieval towns, first by looking at what I consider to be the underlying principles of medieval political and legal thought so far as they concern collectivities; second, by explaining internal conflicts of English towns so as to show how my interpretation of medieval political thought throws doubt on the usual descriptions of crafts and guilds and oligarchies. Some of you may justly complain that I have said some of this before: to that I can only reply that I have not before suggested that the study

of political thought might supply the single clue to several problems about the standard interpretations: the problems may be familiar but the clue is new, at any rate to me. Two more introductory points: firstly, I should make it clear that by medieval political thought I do not mean primarily the academic thought of the clerical treatises on which discussion is generally and misleadingly concentrated, but lay political thought - the ideas and assumptions which determined those social and political norms which are implied in charters, law-suits, and customals. I do not maintain that medieval townsmen, any more than anyone else in history, kept to their norms or lived according to their principles, but these were, I suggest, the norms that they were aware of, the principles which they broke. Secondly, when I talk of the middle ages I do not mean only the period after 1066. Most of my remarks will refer to the twelfth century or later, because the evidence is so much better for then, but I regard the tendency of some British urban historians to treat the middle ages as beginning with the Norman Conquest, and then to relegate the Anglo-Saxons to a sort of limbo of their own (and even to call it the 'Saxon' age) as sheer insular nonsense.

From very early in the middle ages - long before 1066 - lay political ideas and assumptions were founded on the supremacy of law and custom. Because law and custom prescribed order and hierarchy they sanctified authority at the same time as they limited its exercise. Every important act of government involved consultation with the community whose custom was the basis of the law which governed it and which the ruler was enforcing. The king's government rested, *de jure* as well as *de facto*, on the advice and consent of his subjects, not as equal individuals but as a community bound together by ties of due and lawful order and hierarchy. All government was therefore in its way both constitutional and representative: constitutional because every ruler, whether king, lord, mayor, town bailiff, or anyone else, was supposed to be limited by law, custom, and consultation; representative, firstly because the ruler made and declared law as the supreme representative of this people, and secondly because those whom he consulted were themselves representative. The richest and most established burgesses or citizens of a town, like the bishops and nobles of a kingdom, were those who were qualified to speak and judge on behalf of the community of which they were perceived as the most solid, respectable, and responsible members. Representation was not a matter of representing individuals (hence the frequent vagueness about who attended or had the right to attend meetings), but of representing communities.

The government of mayors and town councils, like the government of the king himself, was therefore not only subject to the highest law of all, God's law, but was also answerable to the community which the rulers both governed and represented. The community, as a community, had the right and the duty to speak out against misgovernment and corruption, though that did not mean that its individual members had the right to riot and rebel or to act lawlessly themselves. Their right and duty to criticize did not derive from any equality with their rulers or any *a priori* equal rights as individuals, but from the fact that they were a community. The ideal was harmony: ruler and ruled, rich and poor, all had their parts to play. Each had his place, not equal but related, not in unison but in harmony. Towns, villages, counties, all units of government (up to and most emphatically including kingdoms, though I am not concerned with them now) were thus perceived as communities: communities bound by mutual obligations, including obligations between rulers and ruled. The ruler, even the king, was not sovereign; the law was sovereign, and the law prescribed harmony.

So far is pretty well as in the textbooks. The first inference that I would like to draw from it in connection with towns is that towns did not normally need any special liberties or privileges (let alone charters) in order to function as collective units - even as what later law would call corporations, corporate bodies, or legal persons. 'Nowadays', Maitland once pointed out, in one of those flashes of insight which he never followed up in the pedestrian detail which would have made people understand him better, 'it is difficult to get the corporation out of our heads.'³ Unless we do, however, we cannot understand the constitutional position of medieval towns. In the middle ages all units of local government worked collectively through the normal processes of the law. Each had its own assembly which legislated for itself, declared custom, and gave collective judgment, not democratically but collectively. Normally it had a president, whether its lord or his representative, or in the case of towns, whatever chief official had the duty of presiding. The president might be heavy-handed, but law and judgment were supposed to be matters for collective decision, in which the president took the advice of the wise men of the community. All kinds of groups - not only units of local government like villages and manors and towns, but guilds and even more amorphous groups - were to this extent self-governing and were indeed often required to be so. All of them could act - were required to act - in many ways which later lawyers would say that only corporate bodies could act: not only legislating for themselves (making by-laws in later terms) but suing and being sued; holding lands or rights over land and other property; buying

and selling it; and being held collectively responsible, and being collectively punished, for their misdeeds.⁴

That being so, if follows, I think, that the only towns which needed any grant of liberties in order to act collectively were those which had hitherto been governed as part of a larger area, whether a manor or hundred or some other sort of lordship. Where, for whatever reason, a town had had a separate assembly or tribunal, had formed a separate unit of government, before it got any particular extra independence, then what it gained from its new grant of liberties was an extension of its corporate freedom of action, just as the grant of liberties or franchises to an individual extended his freedom of action. This may sound rather obvious, but it has important corollaries. Firstly, it helps to explain the patchiness of charters, and why some towns (or boroughs) seem to lack charters which grant their fundamental liberties: London was never 'incorporated' because it had always been a separate unit, in effect including Middlesex within its jurisdiction. It also explains some of the difficulties which attach to any definition of boroughs and to the whole concept of 'borough status'.

'Being a borough' did not give a local community any more right to be a community - to act corporately - than any other community had. At first, of course, 'being a borough' was not a matter of rights at all, because 'borough' was not at first a word which denoted a political or constitutional category. From its originally topographical sense - a fortified place - it seems by the eleventh century to have acquired much the sense of what we should call a town. Domesday Book generally uses it, I think, in this second sense: that is, descriptively, with no implications of any particular constitutional or legal status. True, the land inside a borough was normally, if not always, held by a distinctive tenure, but I do not see any reason to think that contemporaries thought of this as the essence of anything that they could have understood as 'borough status'.⁵ Why should contemporaries who did not know of the later legal and constitutional developments have been thinking of 'borough' as a status term at all? It was only those later developments that made status look significant. I think that even the great James Tait got himself up a bit of a blind alley on 'borough status', simply because in his day history was predominantly constitutional, though I reckon that he found more significant information up his alley than most of us find on our motorways.⁶ Since Tait's time, however, we have widened our scope beyond constitutional history and have begun to see that you cannot write even constitutional history backwards. To go on talking of borough status, let alone 'burghality', in the eleventh century and earlier,

suggests a refusal to try to think within the political and legal categories of the past - a determination to fit everything into the categories of later constitutional history - which must be wrong.

In the twelfth and thirteenth centuries, as many towns acquired liberties, so the word borough began to acquire new connotations: there were certain liberties and privileges that one expected a borough to have. Nevertheless, I think that it may still be misleading to talk too readily in terms of borough status. That is because at any one time borough liberties varied widely, because they changed with time, and because the word was still sometimes used without any constitutional significance. Tait's idea of a minimum level of liberties as the minimum qualification of borough status is misleading.⁷ Moreover, though people increasingly thought of boroughs as having corporate liberties - that is, liberties which belonged to the whole community, they cannot, I think, have thought of the corporateness of a borough as different from the corporateness of a village, or county, or other local group. It was not that the distinction existed and that they somehow muddled it. Concepts like that of a corporation or legal person exist only in relation to particular legal systems. In their legal system there was nothing that a 'corporate group' could do that any other group or individual could not, and so the distinction would have been meaningless. All groups could act corporately and the only restraint on their doing so came from more general political norms: they should not usurp powers which belonged to their lords or to anyone else, and they should exercise their own powers, whether enjoyed by custom or by special grant, justly and fairly. Liberties were a matter of degree, which varied from place to place and from time to time. There was no particular legal capacity, or degree of legal capacity, which attached to boroughs as such.

As the legal profession developed and law became more esoteric and professional, town charters, like other legal documents, became longer, more complicated, and more explicit. Townsmen found it safer, or their lawyers found it more profitable, to specify in their charters the details of the powers they claimed. In the thirteenth century a charter might say little more than that a lord was founding a new borough (i.e. a new town) and was giving it, in effect, the normal liberties. Even if he were giving new liberties to an existing town the description of the liberties might be of the sketchiest kind. In the fourteenth and fifteenth centuries, however, charters began to list a whole lot of liberties which according to later lawyers would have made them 'charters of incorporation'. I do not think that contemporaries thought of them like that. From the Coventry charter of 1345 on, the word that historians render as 'corporation' is the entirely traditional and

untechnical world *communitas*.⁸ Every town, every village, every kingdom was in some sense a *communitas*, and the only reason for preventing one from acting as such was that in some circumstances it might be usurping the rights of others if it did so. Lawsuits suggest that common lawyers did not yet have any real concept of the corporation or legal personality, as something juridically different from any other group. Even roman and canon lawyers were only just beginning to feel their way towards it.⁹

So much for the ‘idea of the borough’ or ‘borough status’. If it sounds like legal pedantry I can only say that medieval towns lived within a world of political thought which was based on ideas of law, that law assumed a great deal of corporate activity as normal, and that if we start from the later division between groups that have corporate capacity and those which do not, then we are starting from a foreign body of ideas. And even if some of us are in fact a bit hazy about what modern lawyers mean by incorporation, the fact that we are muddled does not necessarily make us medieval. I shall now turn to the internal affairs of towns and see how starting from rather closer, I hope, to what I think were medieval political assumptions and beliefs affects our view of their conflicts.

I start from the same premise of strong assumptions of community, which produces the corollary that the community has the right and the duty to control or supervise a great deal of life inside it, including the economic side of life. There is right and wrong, justice and injustice, in everything, including in the way you earn your living, in trade, and so forth; though that does not, I think, mean that people were so naive as to assume (as is sometimes suggested when textbooks talk of the medieval theory of the just price) that it would be easy to establish what is right and wrong in individual cases.

The community, as the source of custom and law, and the ruler, as spokesman of the community, had a general right and duty to maintain justice, which included caring for the prosperity of its people. The combination of these two duties therefore imposed on the community and its ruler the right and duty to supervise markets, restraining unfair profiteering and cheating, and to protect a town’s own traders and producers, while, of course, protecting those who bought from outsiders too. When towns were granted a greater degree of self-government these duties were delegated by lords to municipal governments, and as towns grew the duties became more difficult and conflicting. It became harder to secure food-supplies for growing populations; more complex economies produced greater division of labour, and this led to sharper conflicts of interest between groups, and

so on. Meanwhile, of course, the general acceptance of inequality and hierarchy meant that the interests of groups at the top tended to prevail, and the people at the bottom tended to get squashed. That, however, in terms of their political ideas, was not the result of inherent conflicts but of sin. The different groups or orders should have been able to live together in harmony. It was sin and greed and envy which produced conflict, so they tried to eliminate it not by changing the structure but by stricter rules and by punishments.

Early municipal government certainly produced much evidence of sin: notably of corruption and unfairness on the part of the town rulers or 'patricians', as they are usually called.¹⁰ These patricians seem often to have been merchants or wholesalers, because it looks as if wholesale trade, as opposed to manufacturing and retail crafts (so far as they are distinguishable, which is not always the case), was where the big money was. But I think that it is misleading to see the resulting conflict as fundamentally one between merchants and craftsmen, between trade and industry: it was fundamentally a conflict between rulers and ruled, or (since the rich ruled) between relatively rich and relatively poor. I suspect that it only began to be interpreted as between trade and industry because those who first saw it in those terms were living at a time of dispute between the principles of Free Trade and of Protection, neither of which, as principles, has any place in the twelfth- or thirteenth-century world of ideas. The conflict then was not about conflicting principles but about how to protect the interests of the community, how to enforce justice, and how to identify and root out corruption and misgovernment.

A second corollary of the strong assumptions of community is that there was not apparently any conflict about the Right of Association. Like the conflict between Free Trade and Protection, it has, I think, been read into the sources by modern historians. Everyone has the right to associate with his fellows, provided that the actions of their association were lawful, did not exceed the customary restrictions on their freedom of action as individuals, and so on. The humble were naturally bound to obey those set above them, but any theories of economic individualism, or their converse, any theories of socialist collectivity, are foreign to the period. I have not met any evidence of discussions of such theories.

Where associations were prohibited it was, I think, because their activities were, or could be claimed to be, illegal and subversive. Guilds, for instance: English historians, with their customary mental block at 1066, too often put Anglo-Saxon guilds in a separate category and then think of post-Conquest guilds as purely urban. If, however, one draws English guilds into a wider north European setting, it is easy to see that there is no break. Guilds were originally religious and

social associations with no particular urban connotations.¹¹ They always remained primarily drinking clubs with religious and charitable - that is, mutual benefit - functions. They were characterized by just those qualities of affective closeness that the social and political atmosphere of the time allowed and encouraged. It is not surprising that in those parts of western Europe where the word guild was not used there were other associations that look very similar. Guilds and brotherhoods alike formed close warm groups which must have been especially useful to people who felt undefended and strange - traders whose lord did not protect them or who travelled abroad beyond his protection, uprooted immigrants to towns, or craftsmen whose prices were forced down by merchants who controlled local trade and dominated the local courts.

Both guilds and other brotherhoods therefore developed particularly in towns at the time when towns were growing fast in the eleventh and twelfth centuries.¹² In the twelfth century we find many guilds of local traders who speak for the whole town and see themselves, and are seen, as representing its interests. Given the ideas of natural harmony of interests and of the duty of the rich to rule and look after the poor, they should indeed have represented its interests. In practice, of course, interests within towns conflicted. The leading guildsmen of a town or merchant guild naturally tended to represent best the interests of the rich, and were sometimes confronted by guilds representing other groups, like weavers. As a result, kings could, with equal propriety, find themselves protecting or condemning either side, or both.

As this shows, guilds were well adapted to be used to further the common interests of any group, sometimes according to the accepted principles of society and sometimes against them. When more or less autonomous town governments were set up, however, they tended, naturally and rightly in terms of contemporary ideas, to extend their control over local crafts and trades, thus taking over some of the functions that guilds had assumed before the municipalities were established. Guilds were, after all, voluntary societies and not *prima facie* the sort of organizations through which one would expect municipal governments to work. Nor, normally, did they. It is not always noticed how little evidence of continuity there is between the merchant guilds, weavers' guilds, and other craft-linked guilds which are referred to in the twelfth century and the craft organizations recorded later - generally not much before the fourteenth. These later craft organizations are not normally referred to as guilds in the sources. It is true that guilds or fraternities often existed within them and sometimes got control of them,

as did the London skinners' Corpus Christi guild, and that the strong pressures of affective community led even municipal craft organizations to indulge in guild-like togetherness and benevolences. Nevertheless the basis of craft organization was normally not the voluntary association characteristic of a guild, but the delegation from a town government of its duty to maintain order, justice, and trading standards in the craft. Either sort of group could be taken over for any one of a range of selfish purposes, but all the evidence suggests that neither was essentially an association to further its own member's economic interests. Often, in any case, craft organizations included different and conflicting interests. That was the difficulty. Many of the conflicts between town governments and crafts or guilds, or between the crafts themselves, arose, not because they were clearly separate groups with directly conflicting interests, but because the town's rulers and the craft rulers had a mass of duties which, with the best will in the world, would be difficult to reconcile and carry out. It was not easy to control prices, promote trade, and do justice between employers and employed. The ideal of harmony was difficult to maintain, and leading townsmen often succumbed to the temptation to feather their own nests.

Nevertheless their subjects seldom objected to the system. Urban populations are generally described in the sources as consisting of rich, middling, and poor, or powerful, middling, and poor: very hazily defined categories, but it is significant that rich and powerful are synonyms. It was the control of town government and not any specialized economic interest that marked off the rich. Yet everyone, apparently, agreed that the rich not only did but should take the lead in government; only, they ought to consult the others and treat them fairly. No one seems to have said the harmony was impossible in these circumstances. They accepted the structure and its inequalities. In late thirteenth-century Lincoln, for instance, all three classes - here called great, middling, and lesser - put forward virtually the same grievances against the rulers. Though no doubt the middling and lesser suffered most and had most reason to feel aggrieved by the corruptions of those of the great who ruled, there is not evidence that anyone then saw the conflict as one between classes as such. A little later some of the people of common or middling rank founded a guild. Its ordinances said that no one of the rank of bailiff or mayor was to hold office in it. That seems reasonable: everyone knew and accepted the different ranks, and people of one rank might feel happier running their own guild for themselves. Why should a modern historian call the ordinance astonishing and testimony to class discord and class hatred? It was in the English countryside, not in English towns, that people asked questions like

When Adam delved and Eve span
Who was then the gentleman?

Which brings me to the subject of oligarchy, and my dislike of the common use of this word to describe medieval town governments. I have mentioned this at the Urban History Group before, but it is too important to omit now. The trouble with the word oligarchy is that it is an ambiguous word and one that has often belonged, as it tends to belong nowadays, 'in the language of opinion rather than of systematic analysis'.¹³ Ever since classical times 'oligarchy' has been used to describe the government of the few, and generally the few have been taken, implicitly or explicitly, to mean the few rich. Moreover - and here we get into the real ambiguity - ever since Aristotle the word has had more or less definite connotations of a pejorative kind. Aristotle makes this quite explicit: oligarchy for him is selfish (that is, corrupt) government by the few rich. Government by the rich in the interests of all is not oligarchy but aristocracy.

The word oligarchy, with the rest of the Greek classification of constitutions of which it forms part, was not much used in the middle ages, and when it was used it was, I think, only in academic treatises. So far as I know it was not used in English towns and so far as the *Oxford English Dictionary* knows it was not used at all in medieval English. It came into English use in the sixteenth century with, to judge from the *Oxford English Dictionary* examples, much the same pejorative connotations as Aristotle gave it, and it has, I think, been used in much the same way ever since. Some urban historians with whom I have discussed the word maintain that they use it quite neutrally, without these connotations of selfishness or corruption, but, given the past usage, I think that they risk being misunderstood. Besides, the sort of moral neutrality which is, I think, implied in this usage of urban historians seems to me profoundly inappropriate for the middle ages. Medieval political ideas did not allow for moral neutrality or relativity. I suppose that nowadays a good many people assume that government by the rich - by anyone - will be more or less selfish. Of course, opinions differ. Unlike people in the middle ages (so far as I understand the middle ages) we live in an age of ideological conflict about political principles. While some of us think that government by the rich is vitiated by the essential conflict of interest between rich and poor, others think that everyone is selfish anyway and that the rich - the élite - are at least more likely to be competent. And there are other views. I don't want to get bogged down in our ideas, but my point is that, whatever they are, they tend to start from rather different assumptions than those that I find in the middle ages,

when it was generally thought that whoever governed ought to govern in the interests of all, and that if they did not that was the result of sin. Moreover they thought not only that government by the rich might be just but that it was the most just. The rich had a duty to rule. Their wealth not only gave them a stake in society but ought to make them generous, reliable, and less likely to be selfish or corrupt. As Brunetto Latini put it, one of the twelve requirements of a ruler is that he should be rich and well-endowed, for provided that he is adorned with other virtues, it is likely that then he will not be corrupted by money.¹⁴

The reason is clear: society was stratified, and rightly stratified. The earthly order was divinely ordained, even though it would be overturned in the hereafter. Everyone should be content with his lot, living and working harmoniously with his superiors and his inferiors, and do justice to each in his station. Government is the right and duty of those at the top, given that they represent the best interests of those below, consult them, and do justice to them. Medieval writers, even the writers of treatises on government and politics, did not spend a great deal of time discussing the different forms of government - monarchy, aristocracy, oligarchy and the rest - in the Greek manner, and even less in analysing their own governments in these Greek terms. They seem to have been too sure of what was right to be very interested in doing more than distinguishing monarchy from tyranny; that is, just and lawful government from wrong, unlawful government. Normally monarchy, tempered of course by consultation and subject to the law - that is, monarchy and not tyranny - was assumed to be best. Though towns were normally republican, there seems (even in Italy) to have been little discussion of the causes and rights and wrongs of this. I think that we have to take it that a medieval town government was normally intended to be something like what in Aristotelian terms would be called an aristocracy or perhaps a moderate polity: that is, a government in which the higher offices were more or less restricted to the rich (the better and more discreet in medieval terms), but in which the rich office-holders would consult on occasion with the rest of their fellow-citizens, and were accountable to them in important matters. Certainly this seems to be the natural inference to draw from the constitutional arrangements which I have studied, whether in charters, records of arbitrations after conflicts, or simply in the records of elections, meetings of councils, and so forth. Mayors and other senior officers were generally supposed to be elected by especially full meetings of burgesses or citizens. Accounts often had to be audited by similarly full meetings. There was much fear, obviously, of mob rule and the sort of disturbance of due order that might tend to democracy, but there is, I submit, just as much fear

of selfish cliques among the rich - in other words, of oligarchy. Countless regulations were passed which were explicitly, if fruitlessly, designed to prevent speculation and injustice.

Fruitlessly, because, of course, medieval towns often were corruptly governed. Often they were oligarchies rather than aristocracies. The temptations for the rulers were too great. No doubt those who fell into temptation found all sorts of excuses for themselves. But I for one have not found excuses or defences that went so far as attempting to justify oligarchy as such, nor have I found attacks on the oligarchs (as one may, I suppose, justly call those individuals who were corrupt) which offer any criticism of the system as such. The concept of oligarchy is traditionally accompanied and countered by the corresponding concept of democracy, but I have not found any convincing and unambiguous evidence of frustrated or aspiring democrats - democrats on principle, people who believed in political equality - in English medieval towns. The idea that open meetings, like that in 1200 which set up the first municipal government at Ipswich,¹⁵ were meant to be democratic in any sense in which that word is normally used, is, in my view, simply wrong. The idea that town proletariats might dislike the idea of communes because they associated them with the privileges of the rich is wrong too. I hesitated whether to use the word wrong, since both these ideas come from recent books by historians whom I much respect, but to say 'misleading' or 'inadequate' is merely fudging the issue. I maintain that they are wrong, and that they have no basis in the sources, if we read the sources in the light of the ideas of the time in which they were written. There may have been times and places when underdogs got so angry and frustrated by injustice that they began to think in terms of political equality and democracy: London in the 1260s in one such time and place, for instance. Even then, however, I am not at all clear that the mob was actuated by anything so ideologically revolutionary. It may just have been, in the words of the chronicler, *elatus et superbia inflatus*.¹⁶

And though the annals of medieval towns are full of the records of corruption and injustice (injustice, that is, in medieval terms as well as in ours), that is in itself testimony to the stern judgment both of medieval townsmen and of the kings and lords who arbitrated in their quarrels and who often condemned the corrupt. They thought that selfishness, government in one's own interests, injustice to the poor, speculation and so on - that is, oligarchy in Aristotle's sense - were *wrong*. They went to great pains to eliminate them. Let us bear in mind that sin gets better recorded than virtue, troubles than peace and justice. We cannot, of course,

assume that towns were perfectly governed all the time when we do not hear of disputes and riots and protests. There was too much deference and submission for that. But are we right in assuming that all governments were equally corrupt and oppressive? Surely not. Even some of the deliberate attempts to restrict participation were explained (and why not at least in part honestly explained?) by requirements of good order - the entirely respectable need to avoid riots and keep the peace.

I should like to finish by repeating some of the prescriptions for the good government of towns laid down during the thirteenth century by Brunetto Latini of Florence in his *Li Livres dou Tresor*.¹⁷ If anyone objects that this is rather remote from England I may point out that my translation is made from the extracts from Brunetto's book which were copied into the *Liber Custumarum* of London early in the fourteenth century, not very long after he first wrote them. The copyist does not seem to have thought Brunetto's ideas remote or irrelevant. He simply changed words like *seignor* or *sires* to *soverain*, *governour*, or *meire*, and then apparently thought that his extracts applied well to local affairs. I suspect that few medieval townsmen would have disagreed with him.

Brunetto starts by saying that all lordships and all dignities come from God, and that in the good ordering of this world he wills that the government of towns should be sustained by three pillars - justice, reverence, and love. Justice must belong to the governor. It must be so firmly enclosed in his heart that he shall do right to everyone and shall swerve neither to right nor to left. Burgesses and subjects must have reverence, for that is the one thing in the world which secures the merits of faith and that endures all sacrifices. Love must belong to both ruler and subject, for the ruler must love his subjects with true heart and pure faith, and watch night and day for the common welfare of the whole town and all the people. Even so must the subjects love their ruler with true heart and honest intent, and must give him counsel and aid to sustain his office. The mayor (or the lord) is, as it were, the head of the citizens, and everyone desires to have a sound head, because when the head is unsound all the limbs are sick. Therefore the people must above all else study to have such a governor as will lead them to a good end, according to right, reason, and justice. They must not choose by lot or by chance but by full provision of wise and careful counsel. Brunetto lays down twelve qualifications for a ruler, including the requirement of wealth that I have already mentioned, and gives good advice to him. Much of the advice seems to amount to not much more than being against sin. But it was what people believed in.

¹ This paper was written to be read at the meeting of the Pre-Modern Urban History Group on 5 December 1981. Its arguments were developed and supplied with more references in *Kingdoms and communities* (Oxford, 1984), especially chapter 6.

² Of these words, 'oligarchy' is the most folly discussed below. For further discussions of the others see *Kingdoms and communities* and S. Reynolds, *Introduction to the History of English Medieval Towns* (1977), index *sub* patrician, guild, borough, commune.

³ F.W. Maitland, *Township and Borough* (1898), 15.

⁴ Reynolds, *Kingdoms and communities*, Chapter 1; above, no. VI.

⁵ Reynolds, *English Medieval Towns*, 96–8.

⁶ J. Tait, *The Medieval English Borough* (1936).

⁷ *Ibid.*, 94–220.

⁸ Reynolds, *English Medieval Towns*, 113–14.

⁹ See 'The history of the idea of incorporation', above, VI.

¹⁰ Examples are given in Reynolds, *English Medieval Towns*, 130–9.

¹¹ E. Coornaert, 'Les ghildes médiévales', *Revue historique*, CXCIX (1948), 22–55, 206–43.

¹² The following paragraphs draw largely on material cited in Reynolds, *English Medieval Towns*, 136–9, 171–87.

¹³ T.P. Jenkin, 'Oligarchy', in *International Encyclopaedia of the Social Sciences*, ed. D.L. Sills (New York, 1968–79), XI: 281–3.

¹⁴ Brunetto Latini, *Li livres dou tresor*, ed. P. Chabaille (Paris, 1863), 580. See below.

¹⁵ C. Gross. *The Gild Merchant*, II (1890), 114–23.

¹⁶ *De antiquis legibus liber: Cronica maiorum et vicecomilum Londoniarum*, ed. T Stapleton (Camden Soc., ser. 1, xxxiv, 1846), 55.

¹⁷ *Munimenta Gildhallae Londoniensis*, H.T. Riley (ed.), (1859–62), 16–24; cf. *Li livres dou tresor*, ed. Chabaille, 577–81, 611–14, 608–11.

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XV

The writing of medieval urban history in England*

Serious urban history started to develop later in Britain than it did in countries where nineteenth-century historians saw the 'free cities' or city-states of the past as central to national traditions. The attention of nineteenth-century British historians was concentrated much more on national history and what they saw as the glorious growth of English liberty. Writing about 1873, the great constitutional historian of medieval England, William Stubbs, was un-enthusiastic about medieval towns - which he, incidentally, like other constitutional historians tended to call 'boroughs'. It was the barons and the rural knights who were the 'national champions', and whose victory against tyrannical kings 'was the guarantee of national progress'.¹ He considered, moreover, that while the measure of municipal independence that some English towns achieved in the middle ages had 'in many cases helped the cause of liberty, it [had] in others encroached largely on wider rights.'² J.R. Green, whose *History of the English People* (1877) attained much popularity, was more positive: 'In the silent growth and elevation of the English people the boroughs thus led the way. Unnoticed and despised by prelate and noble they preserved or won back again the full tradition of Teutonic liberty.'³ Either way the focus was on towns in general as part of national history, rather than on individual towns. This remained typical among academic historians for some time, though London sometimes came in for slightly fuller treatment. When local historians meanwhile wrote the history of individual towns, they tended to start with what the American scholar Charles Gross described in 1897 as 'vague conjectures concerning the antiquity of the borough, together with a heavy padding of generalities concerning the Celts, Romans, and Anglo-Saxons', after which 'the writers plunge abruptly into the fifteenth, sixteenth, or seventeenth century. The town history is thus, in reality,' he concluded, 'often left a complete blank down to the end of the Middle Ages.'⁴

The situation now is very different. Apart from occasional works of great

importance, notably James Tait's *Medieval English Borough*,⁵ not a great deal was published until the last thirty years. Since then, however, much work has been done on medieval towns. Most has been on the towns of England proper. Welsh and Scottish medieval urban history has only begun to flourish more recently,⁶ partly because towns in Wales and Scotland developed later and less strongly than they did in England. This paper deals only with England, partly because there is more to say about it and partly because medieval Wales and Scotland were, economically, politically, and socially distinct from England and really need separate treatment. Since it also concentrates on the middle ages, it may be worth noting that in Britain urban history has tended to be very strong on the modern side - not surprisingly, considering the vast development of British towns in the late eighteenth and nineteenth centuries. Since 1974 the *Urban History Yearbook* has provided annual surveys of work in all periods.⁷

Rather than simply surveying what has been done, most of the essay will make suggestions about what still needs to be done, which I hope will be as useful and perhaps slightly more stimulating than a straight survey of past work. It would, however, be ungracious and misleading not to say anything about recent achievements. There seem to me to have been four main areas in which a great deal has been learned. The first is the topography of medieval towns. Here the chief advance has come from archaeology.⁸ British archaeologists have excavated many secular urban buildings as well as churches and have much enlarged our knowledge. That is perhaps most striking for the early middle ages, before documentary evidence becomes relatively abundant in the eleventh and twelfth centuries, but on the later period too there has been some extremely productive cooperation between archaeologists and historians. Much expertise has been acquired on the integration of archaeological and documentary sources, most notably on the history of Winchester and London. Until relatively recently medieval London had received less attention than it deserved, probably because historians had been discouraged by the mass of apparently unrewarding property deeds surviving from the twelfth and thirteenth centuries. Now, however, Derek Keene and his associates have devised a way of using the deeds in connection with archaeological and topographical evidence to produce much new information, illuminating both demographic and economic changes as well as topography.⁹ Other topographical work, for instance on the formation of urban parishes, has also been important, and the first three volumes of the British *Atlas*

of *Historic Towns* have appeared, including that on medieval London.¹⁰ The second area which has attracted particular attention in recent years has been that of the smaller towns - what are often in English called market towns. Since most English towns were small in the middle ages they merited the light now cast on them, notably by R.H. Hilton.¹¹ One unusual place, which should probably rank as a small town, was Westminster, which has hitherto been thought of - in so far as anyone thought about it at all - as a curious suburb of London dominated by monks and government offices. It has now been shown to have developed a vigorous, if unofficial, collective life of a distinctively urban kind which needs to be considered when the essential characteristics of towns are discussed.¹² A third subject which has been discussed lately is the problem of urban 'decline' in the later middle ages. It is still not always discussed critically enough, in my view: too many medieval urban historians have started from an assumption that decline was general and proceeded to illustrate rather than prove it, but the assumption has been challenged and the terms of debate have been clarified. We can look forward to more rigorous work in future.¹³ The last area I should like to mention is that of urban sociability and ceremony in the late middle ages. In 1972 Charles Phythian-Adams showed how illuminating an approach through social anthropology could be here.¹⁴ Very interesting work is being done, on fraternities and other aspects of lay religion, which, though not exclusively urban, tend to be better recorded in towns than in the countryside.¹⁵

As a result of all this, and of work done earlier in the century, we now know much more about English medieval towns than Stubbs or Green or even Gross did. Where I think that we have not advanced quite as much as we should is in our understanding of the subject. A lot of good work has been done on the evidence but not enough thinking about our interpretation of it. Historians, in my view, need to think more about their reasoning, their assumptions, and the concepts that lie behind the words they use than they seem to like to do. It is not surprising that British historians, with their traditionally pragmatic approach, do not spend much time on this. If I may say so, however, medieval urban historians of other countries, despite the appearance of a more theoretical approach, seem also, like the British, to be still working within a framework of ideas that was created in the nineteenth century. It is a framework that reflects nineteenth-century preoccupations rather than either the knowledge of society that we now have or

ideas and values which were current in the middle ages. No historians now write about medieval towns in terms of their contribution to the glorious growth of English liberty, as Stubbs or Green did, but their discussions are still cast more in the terms of the nineteenth-century agenda than most seem to recognize.

As I have already suggested, English urban history was less closely connected in the nineteenth century to the political controversies of the time than it was in countries where representative government was still an ideal to be achieved and where the liberties of medieval cities, however unjustly they had been exercised, were powerful symbols to inspire future achievement. The inherited traditions of English towns were not entirely uncontroversial. In the 1830s the oligarchical corruption of municipal governments came under severe review, but the heart of the controversy concerned the control of corporate property. It was primarily a legal issue, not one of large political principles. In so far as the unrepresentative character of municipal corporations was also at issue it was part of the larger question of representative government on the national level.¹⁶ A little later Joshua Toulmin Smith's researches into medieval guilds and towns were inspired by his liberal and reforming principles, but by the time his material was published in 1870 the interpretations to be put on it were coming to be dominated by ideas from Germany.¹⁷ The use of the word 'burgher' rather than the English 'burgess' by Stubbs and others is suggestive in this connection.¹⁸

German influence is not surprising: it was not merely that Germany dominated medieval studies in general. German historians had started early on medieval towns, not just on the narrowly legal lines that characterized the sparse work on English towns, but on lines that appealed to those who wanted to relate the history of towns to more general themes of current concern. Medieval urban history became much more interesting when it was connected to the growth of capitalism, conflicts between classes, or the part played in the growth of liberty by Roman and Germanic ideas about collectivities. All these subjects were brought into English urban history from abroad. Their effect was stimulating, although at first, in a nationalistic age, the mere fact that they were foreign provoked some proud rejections: Green maintained that the 'tyranny of class over class' which he found in the cities of Germany and the Low Countries 'was restrained in England by the general tenor of the law' and his widow, Alice Green, suggested that the relatively popular government which she thought characterized the towns of medieval England was produced by 'her people's passionate instinct for liberty'.¹⁹ Later generations, less confident but equally obsessed by national differences, spoke

more of the backwardness of English towns. Either way, the assumption that significant differences can be assumed to run along national lines - which often means along nineteenth- or twentieth-century boundaries - has hampered comparative urban history ever since, and not only in England.

German influence brought with it the connections which German historians made between medieval towns and guilds and nineteenth-century politics. Whereas in England the law of incorporation, as distinct from the misdeeds of individual town governments, was of interest chiefly to lawyers, in *Germany Genossenschaftstheorie* was interesting to historians and intellectuals because of its connection with arguments about national liberty and unification. Although Gierke's direct influence in Britain was limited, his ideas came in partly through the translation of a short part of his work by the great legal historian, F. W. Maitland, and even more perhaps through Maitland's introduction.²⁰ More immediately noticeable by the end of the nineteenth century was the influence on economic historians of works which had interpreted the rise of cities in the Low Countries and Germany in terms of the origins of capitalism, class conflict between merchants and craftsmen, oligarchy and democracy. These two themes, concern with the legal character of collective groups and with the economic causes of political conflict, have dominated medieval urban history ever since. There is nothing wrong with that. Both are good subjects and the second is one which no historian can ignore. But because the discussion was started by nineteenth-century historians who saw medieval conflicts through nineteenth-century spectacles, and because urban historians since then do not seem to have thought enough about their underlying assumptions, much medieval urban history still seems to me to be working within this framework of nineteenth-century issues and nineteenth-century ideas.

The fact that they were more German ideas than English ones was at first the result of the power and interest of nineteenth-century German urban history: English national history provided issues to think and argue about, but there was little inspiration in the kind of legal antiquarianism that characterized traditional English urban history. I emphasize the foreignness of the ideas, not because I think that it means that they are bound not to apply to English medieval towns, but first because it suggests the peripheral nature of urban history in the native tradition, and second because it may help to explain why later generations have been less critical of the ideas embedded in medieval urban history than they have been of nineteenth-century ideas in national history. Ideas which come from other traditions, are based on unfamiliar evidence, and are written in other languages

may seem less vulnerable to criticism.

The first subject on which we can still see the dominance of nineteenth-century ideas that have outworn their usefulness is that of the definition of towns. That has everywhere been very closely connected with the problem of urban origins. So much has the image of medieval towns been dominated by the great cities of Italy, Flanders, and Germany that historians for a long time were very reluctant to consider any medieval settlement as urban if it did not possess liberties, charters, and walls. Italian historians have only recently come to consider places which were never independent as even belonging within urban history at all. Part of the continuing appeal of expressions like *Frühstädte* or *Bürgerstädte* seems to be that, even after Pirenne's theories have fallen into ruins, some people still want to find a fundamental change of character around 1100. In Britain we suffer from these hangups too, in an aggravated form. As well as being influenced by the old assumption that *real* medieval towns only got going around the twelfth century (which in English terms traditionally means after and because of the Norman Conquest) we have to cope with a special problem of our own which derives from the native tradition of legal history. That is the problem of the word borough.

Traditionally historians of medieval English towns only accepted that a place was a town if they could call it a borough. Even now they still worry about what is called 'borough status'. This is a meaningless concept for the middle ages. The modern English word borough is a word of constitutional significance - a significance which depends on the constitutional conditions of the time in which it is used. When historians refer to a medieval town as a borough it is normally because it was referred to in medieval sources by the Latin word *burgus*, or some vernacular equivalent like the Old English *byrig* or Middle English *boru*, *borwe*, *burowe*, *borogh* etc.²¹ These words, however, changed their meanings during the middle ages and afterwards as the phenomena they referred to changed and as people's ideas, and the contexts in which they were talking or writing, changed too. The Old English word seems to have first been applied to fortified places and then presumably had connotations of fortification rather than of anything else. Thereafter, when many such places began to develop as centres of trade, industry, and administration, and of a distinctive kind of society, the word began to acquire new, urban connotations. It seems to have been used generally to denote the kind of place that is called in modern British English a 'town' - that is, a urban place, what an American might call a city or a Netherlander would call a *stad*. Despite the arguments that have raged around the meaning of *burgus* in Domesday Book,

for instance, it seems to me clear that it was used there to mean very much what is meant by town in colloquial use today - that is, it was used because it denoted a category of place that was commonly recognized at the time without anyone bothering about its exact definition. The only reason for supposing that either *burgus* or *civitas* had any particular constitutional or legal connotation in Domesday Book is that historians have got into the habit of looking for the origins of later constitutional categories and of assuming that words which later had constitutional significance must always have done so.²²

From the twelfth century some towns began to acquire formal liberties and so people's ideas about the kind of places for which they used one of the vernacular equivalents of the word *burgus* changed accordingly. The typical 'borough' began to be a place with liberties, so that the word acquired a certain constitutional significance, though no one laid down minimum qualifications for its use and even if they had done so there was no way of enforcing uniformity of usage. As the centuries passed, those places that had always been called boroughs but had no liberties began to seem more and more anomalous. In the end lawyers and antiquaries got to work on the problem and produced retrospective and anachronistic definitions. The result has been to convince most foreign scholars that, since the vocabulary of medieval English urban history is so strange and impenetrable, English towns must have been quite different from towns in the rest of Europe and they had better not try to study them. That is a great mistake. The technicalities are the technicalities, not of medieval history, but of historians. English towns are much more like the towns of the rest of Europe than talk of 'borough status' would lead one to believe. The whole muddle illustrates well the danger of confusing words, phenomena, and concepts, and of confusing our concepts with the concept of the past. So do debates about the origins of incorporation or legal personality, which have further complicated the anachronistic debates about 'borough status' with equally anachronistic ideas imported from Germany. As Ernest Barker put it, Gierke, for instance, in his anxiety 'to discover the essence of group-life, the source and nature of group-authority, and the significance of group-personality,... brought his own categories and problems to the study of his material;... and ... thus imprinted the form of his own scheme and system of thought upon the matter of his study. The danger of such a method is that it tends to make the theories of the past square with the demands of a particular system of the present'.²³ I have argued elsewhere that it is fallacious to suppose that the use of the word commune implied any new ideas

about 'legal personality' or that such ideas developed through Romanist and canonist influences in the thirteenth century.²⁴ It also seems to me quite unreal to suppose that such legal ideas could have somehow enabled townspeople, or other groups in real life, to have become more united and effective.

Archaeology has now helped to break the stranglehold of anachronistic constitutional categories on the problem of urban origins and of what constitutes a town. Unfortunately, interdisciplinary work always imposes extra difficulties. When archaeologists and urban historians are busy trying to understand each other they tend both to pick up each other's old orthodoxies and to ignore what yet other disciplines have to teach. As a result some British scholars, particularly archaeologists, have opted out of the problem of definition by using the concept of a 'bundle of criteria' - to my mind one of the less useful concepts that has come to Britain from abroad. Given the scarcity of evidence and the different types of evidence that we need to use, we obviously need to use different types of evidence, but that is no substitute for a definition. A bundle of criteria presupposes some kind of intuitive definition, however vague and unexamined. How else would there be a bundle and how would we decide what to put in it? Presumably we have some idea of the character of the bundle - some mental piece of string which we put around certain criteria or characteristics. The way that people who talk about bundles nevertheless continue to use the adjective 'urban' - and nouns like 'town' or *stad* - in an intuitive way, implies that they are assuming a category of some coherence however much they avoid discussing it. Our understanding of the significance of our discoveries would be better if we confronted the problem and risked definitions, if only to have them confirmed, refuted, or refined. My definition, which I am willing to change, if anyone will convince me that it is defective, has two parts. The first part is functional: a town is a permanent and concentrated human settlement in which a significant proportion of the population is engaged in non-agricultural occupations - characteristically in a variety of trades and industries, and probably in some administrative, political, and professional work too. A town therefore normally lives, at least in part, off food produced by people who live outside it. Larger towns may import some of their food from far away, but many live primarily off what is produced in the surrounding countryside, to which they provide goods and services in return. A town's functions as a market centre tend to make it a convenient centre for religious, administrative, and legal purposes, though which of these functions came first, or predominates at any moment thereafter, will vary from town to town and from time to time. The second part of my definition is

social. The inhabitants of towns normally regard themselves, and are regarded by the inhabitants of predominantly rural settlements, as a different sort of people. This is a loose definition but that is not, I suggest, because it is defective. It is because the category itself is a human construct and is essentially one with an unclear boundary: many places, both now and in the past, may fall on or near its boundary.

Using this definition I think that there can be no doubt that there were real towns in England before the tenth century, and before the Danish invasions and the building of fortifications against them. Towns grew in number and size during the tenth and eleventh centuries and by the twelfth century I suspect that Wales and Scotland may have had some small examples too. All these changes, however, like those later in the middle ages, were changes of scale and circumstance, rather than of essential character.²⁵

A good deal of the history of towns in the Low Countries and Germany that stimulated British historians in the late nineteenth and early twentieth century was concerned with patrician oligarchies and their conflicts with craftsmen who were generally supposed to have been in favour of more democratic government. A good deal of the discussion of medieval and early modern towns ever since has used the same terms, either stating or assuming that urban conflicts reflected conflicting ideas about the just and right structure of urban government. It is worth considering how much of this interpretation reflects the ideas and concerns of the nineteenth century rather than of the middle ages.

The words oligarchy and democracy were rarely used in the middle ages and when they were it was by more academic writers who borrowed them from Aristotle.²⁶ Some were at pains to relate parts - small parts - of Aristotle's analysis to medieval cities, but the evidence of real urban politics and conflicts suggests that they took place within a very different world of ideas. The word oligarchy is misleading, first because it tends to evoke a contrast with democracy, whether or not the speaker intends it to do so. In the middle ages the critics of medieval town governments often demanded more and wider consultation, but I do not think that those demands reflected a belief in anything like the kind of political equality of those who ranked as burgesses or citizens, let alone of town populations in general, that is suggested by the modern use of the word democracy. Medieval townspeople seem to have believed in a certain degree of popular participation but so, apparently, did everyone: it was the official duty as well as the right of all respectable burgesses or citizens to turn up at assemblies

which dealt with important matters like hearing accounts and electing chief officers, but it was the duty as well as the right of the richest and most respectable - in medieval terms the wiser and more discreet - to do most of the work and take most of the responsibility. For most of the time, therefore, and for all practical purposes, government was the government of the few. Hence the modern use of the word oligarchy to describe it.

The second way in which the word oligarchy is misleading, however, is that ever since Aristotle it has tended to imply not merely the government of the few but the government of the few rich in their own interests. Of course that is what medieval town government sometimes or often was - not surprisingly, since we can now see that there were fundamental conflicts of interest between rulers and many of their subjects. But that does not seem to be how it appeared to them. To them oppression and conflict were the result of sin and ought to be resolved, not by a change of structure or a wholesale transfer of power, but by ensuring enough popular consultation to keep a watch on the rulers and, above all, to see that they presented full accounts. All the reforms that were instituted over and over again in any town whose records I have read were designed not to remove authority from the rich as such (though they sometimes tried to remove it from certain rich individuals or groups) but to try to make them exercise it justly. A measure of popular supervision was one of the ways of achieving this which seems to have been generally favoured, whether by townsmen or by arbitrators from outside. But the background of ideas against which they saw popular supervision was different from that which lay behind the words oligarchy and democracy in ancient Greece or which lies behind them now. I do not think that we can advance our understanding of medieval or early modern conflicts if we use words which imply the different sort of political ideas and values which have informed conflicts in later ages. If medieval townspeople had used Aristotle's analysis or thought in similar terms their ideal would have been not democracy but polity or, perhaps, aristocracy. But they did not use his terms and until we study what they said more carefully I do not think we shall understand their conflicts.

I want to apply this caution to conflicts in all medieval towns, but it applies perhaps even more strongly to English towns because the conditions which provoked such famous conflicts in some of the great cities of Italy, the Low Countries, and Germany did not obtain in England. No English town had the independence to stimulate the power games that were played in Italy and all were liable to interference from above when oppression or corruption became too noticeable. Most English towns, moreover, were too small to encompass very

large inequalities of wealth between burgesses. Although there were often individual merchants whose interests conflicted with those of the majority of their fellow-burgesses it may be misleading to envisage them as forming anything like a whole class with distinct economic interests. In most English towns, for whatever reason, few families of leading burgesses seem to have lasted very long so that hereditary 'patriciates' were less likely to develop and to entrench themselves. Yet many British historians of medieval towns refer to urban patriciates, apparently implying the kind of deliberately closed, self-perpetuating, and interrelated elites which nineteenth-century German historians thought had ruled German cities in the later middle ages and later. British historians do not seem to have noticed the doubts expressed more recently by some who write in German about these implications and the ambiguities they involve.²⁷ I suggest that the use of the word patriciate, like the use of the word oligarchy, needs to be justified by showing that the connotations it has acquired in modern scholarship reflect ideas and values that can be found in medieval sources.

My arguments against the traditional discussion of urban government and society in terms of oligarchy have aroused two reasoned and courteous replies from British urban historians which are worth mentioning because they illustrate the problem of interpretation. One thought that I objected to the word oligarchy because I was arguing that medieval towns were in fact governed by consensus.²⁸ I was not. I think there was much oppression and much conflict, but that the *ideal* was consensus and harmony and that using the word 'democracy' as what this colleague called 'a useful shorthand expression for movements to open up town government' is ambiguous. It leads to confusion about what was actually intended and how much disagreement there was about structures. The other historian thought that events in fifteenth-century York implied more radical objectives than I suggested.²⁹ In particular she drew attention to a claim by the commonalty (that is the commoners or community of citizens outside the government) that, since they were all 'one body incorporate' they were 'all alike privileged [including any] of the commonalty' who had never held office. This does indeed look like a statement which implies a strong claim to equality, but, hard as it may be for us to believe, it forms the preamble to a demand that the city chamberlains should be appointed only from former bridgemasters and bridgemasters only from 'the most able men in goods and discretion'.³⁰ Whatever they were aiming at, therefore, it was not anything like the kind of political equality that we can see discussed in the eighteenth century and later. Maybe I am wrong: perhaps I have underestimated the

ideological conflict in medieval towns. But this small controversy illustrates, I think, the difficulty of interpreting documents dealing with urban conflicts and the need to think hard about them. It also shows that British urban historians are thinking about the problem and are arguing about it in a way that should advance our understanding: serious arguments about the interpretation of the sources must be profitable, whoever is thought in the end to come nearer the truth.

There is, moreover, a big question which is ignored if medieval towns are discussed in terms of oligarchy, democracy, and patriciates. When did ideas of political equality begin to inspire townspeople? Was the weakening - or, alternatively, the strengthening - of oligarchy in the seventeenth century, for instance, a result of changing ideas?³¹ I wish that more of those who write about English and other European towns in the sixteenth and seventeenth centuries had read some of the works in which American historians have demonstrated what traditional and inegalitarian views of political structure the English settlers took with them to New England.³² Is it likely that those who remained behind in old England were already embracing the ideas about political equality and democracy that would only gradually emerge in America in response to new conditions and problems that arose there? How long before the English reforms of the 1830s were the corruptions that were then deplored seen as deriving from fundamentally unjust structures? How long before the French Revolution were such structures resented because they denied the right of each adult male inhabitant of a town an equal share in its government? These are questions which British urban historians do not seem to have yet considered but that deserve consideration.

On that other dominant theme of urban history, the so-called craft guilds we are, I think, beginning to come out from the shadow of nineteenth-century preoccupations. Recent work on guilds and fraternities is beginning to sort out the confusions that arose through the old assumptions that guilds were primarily economic associations of which the 'craft guild' was the most typical kind.³³ Once again, we could help ourselves further by confronting the nineteenth-century issues that have shaped debates ever since. In the nineteenth century the problems of urbanization and industrialization led some historians to look back nostalgically to the time of brotherly cooperation and harmonious craftsmanship which they located in the middle ages and associated with what they called 'craft guilds'. This view brought an inevitable reaction from later historians who found that, whatever the medieval ideals of harmony, the reality was very different. Shaping

their arguments, as historians so often do, less from a totally new interpretation than as a refutation and mirror-image of what they were criticizing, they saw merchant guilds and craft guilds as hypocritical covers both for nascent capitalism and for protectionism. Both sides assumed that guilds in general had been concerned with such matters of economic policy as concerned the nineteenth century. But no one in the middle ages seems to have argued about issues like free trade versus protection or the right of association. Everyone assumed that lawful governments had the duty to regulate the economy in the interests of the whole community just as they assumed that any sort of association was lawful provided that it was not subversive. The exception left many associations in a dubious position, but the political, economic, and legal assumptions on which any judgement of subversion was based were quite different from those which prevailed in the early days of trade unionism. Charles Phythian-Adams makes an important point when he says that the organization of crafts in Coventry was primarily intended, not to regulate the economy in any direct sense, but to provide 'an ordered and decentralized framework for conflict between household and household, Craft and Craft, and between Craft and civic government.'³⁴

Craft organizations, moreover, where they existed (and they were by no means universal or covered all crafts), though they often embodied many of the features of sociability that medieval people took for granted, normally exercised their authority by delegation, whether formal or implied, from the town government. They were therefore quite different in principle from the kind of voluntary club to which the name guild was more normally applied. Medieval people themselves did not always distinguish guilds and crafts in practice or in terminology, but we can best understand their purposes and practices by bearing in mind the difference of principle between associations with delegated functions and voluntary clubs.³⁵ We might also consider how close is the connection of ideas between such ideas of sociability as were expressed in associations for feasting and the care of their members' souls and the ideas of political economy which underlay the regulation of crafts. Any discussion of medieval political ideas needs to take account of both these sets of ideas, along with many others, such as those which concerned custom, justice, hierarchy, and collective activity in all kinds of group from kingdoms down to parishes. There does not seem to be any reason to separate out these two, conflate them together under some such heading as 'the idea of the guild', and suppose that they represented a single principle which can be distinguished from the rest. Whatever the ideals and purposes of medieval

associations - and presumably these tended to change as their members changed too - it is improbable that they were those that were foisted on to them by nineteenth-century historians, whether in admiration or disapproval.

I hope that the topics that I have discussed suggest points of contact and comparison with other countries. Having done some work on towns outside England I am in no doubt both that English towns were much more like those of the rest of Europe than traditional nationalist historiography has implied and that comparisons are essential even to make sense of one country. But they must be real comparisons: it is no good just looking for features abroad which resemble those one finds at home. One must study them in their context in both places and try not to start from all those assumptions about national differences that meant so much to nineteenth-century historians and that still seem so deeply embedded in historical tradition today. I hope that I have also said enough to show that medieval urban history is a live and interesting field in Britain today. We still need to look harder at our old assumptions but we are beginning to be more argumentative, and that is a step in the right direction. One impediment we face, as do all medieval urban historians, derives from one of the strengths of the subject, namely its interdisciplinary character. It is difficult to be intelligently critical about work in other disciplines. When historians and archaeologists cooperate, for instance, it is only too easy either to turn the other side's hypothesis into an orthodoxy because one feels incompetent to criticize it, or to resent their criticism of one's own hypothesis because one has got into the habit of treating it as proved. We must struggle with this and try to persuade all those who study urban history that the best way forward is not to follow old models but to formulate new and explicit hypothesis and then to try to falsify them. Better still, we might try to formulate multiple hypotheses and test them all, so as not to become exclusively wedded to one. If we must use models, in other words, let us make sure that they are engineers' models to be tested, not fashion models to be followed.

Notes

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¹ W. Stubbs, *Constitutional History*, 3 vols. Oxford 1874–8, iii. p. 591 (§ 812).

² *Ibid.* i. p. 419 (§ 131).

- ³ London 1877, i. p. 212.
- ⁴ *Bibliography of British Municipal History*, New York 1897, p. xxxii.
- ⁵ Manchester 1936.
- ⁶ Eg. R.A. Griffiths ed., *Boroughs of Medieval Wales*, University of Wales Press 1978; M. Lynch and others ed., *The Scottish Medieval Town*, Edinburgh 1988.
- ⁷ R. Holt and G. Rosser ed., *The English Medieval Town 1200–1540*, Longmans forthcoming, will contain a selection of essays published in the past twenty years and an introduction surveying the present state of the field.
- ⁸ J. Schofield and R. Leech ed., *Urban Archaeology in Britain*, Council of British Archaeology Research Report 61.1987; *Medieval Archaeology* (1957–) contains annual notices of excavations. C. Platt, *The English Medieval Town*, London 1976, which starts in 1066, is particularly good on the archaeological and topographical side.
- ⁹ M. Biddle ed., *Winchester in the Early Middle Ages*, Oxford 1976; D.J. Keene, *Survey of Medieval Winchester*, Oxford 1985; D.J. Keene, 'A New Survey of London before the Great Fire', in: *Urban History Yearbook*. 1984, pp. 11–21; cf. D.J. Keene and V. Harding, *Survey of Documentary sources for property holding in London before the Great Fire*, London Record Society (22), 1985.
- ¹⁰ On parishes see e.g. the works cited in Reynolds, *Introduction to the History of English Medieval Towns*, Oxford 1977: the first volume of the Atlas appeared under the title *Historic Towns*, ed. M.D. Lobel, London 1969; the second as *Atlas of Historic Towns*, ed. M.D. Lobel and W.H. Johns, London 1975; the third as *The British Atlas of Historic Towns: the City of London from Prehistoric Times to c. 1520*, ed. M.D. Lobel, Oxford 1990.
- ¹¹ E.g. *A Medieval Society: the West Midlands at the End of the Thirteenth Century*, Oxford 1966, pp. 167–217; 'Towns in Societies - Medieval England', in: *Urban History Yearbook* (1982), pp. 7–13; 'Medieval Market Towns and Simple Commodity Production', in: *Past & Present*, 109 (1985), pp. 3–23. Cf. P. Clark and others, in: *Population Estimates of English Small Towns*, Leicester Urban History Centre 1989.
- ¹² G. Rosser, *Medieval Westminster, 1200–1540*, Oxford 1989.
- ¹³ The subject is well surveyed by D.M. Palliser, 'Urban Decay Revisited', in: *Towns and Townspeople in the Fifteenth Century*, ed. J.A.F. Thomson, Gloucester 1988, pp. 1–21.
- ¹⁴ 'Ceremony and the Citizen: the communal year at Coventry 1450–1550', in: *Crisis and Order in English Towns, 1500–1700*, London 1972, pp. 57–85.
- ¹⁵ Eg. S. Brigden, 'Religion and Social Obligation in Early Sixteenth-century London', in: *Past & Present*, 103 (1984), pp. 94–102; C.M. Barron and C. Harper-Bill ed. *The Church in Pre-Reformation Society*, Woodbridge 1985; N.P. Tanner, *The Church in late Medieval Norwich*, Toronto 1984; S.J. Wright ed., *Parish, Church and People: Local Studies in Lay Religion, 1350–1750*, London 1988.
- ¹⁶ G.H. Martin, introduction to H.A. Merewether and A.J. Stephens, *The History of the Boroughs and Municipal Corporations*, 3 vols. Brighton 1972 and orig. edn., London 1835, pp. v–vi.
- ¹⁷ I. Doolittle, *The Corporation of London and its Livery Companies*, London 1982, p. 30; L. Toulmin Smith, introd., and R. Brentano, 'History and Development of Gilds and the Origin of Trade Unions', in: Toulmin Smith ed., *English Gilds: Original Ordinances of the Fourteenth and Fifteenth Centuries*, Early Eng. Text Soc. xl, 1870.
- ¹⁸ E.g. Stubbs, *Constitutional History*, i. pp. 412–17; A.S. Green, *Town Life in the Fifteenth Century*, pp. vii–viii; 'burgher' was not unknown in English usage before but it seems to have been taken up by nineteenth-century historians: *Oxford English Dictionary*, Oxford 1888–1928, burgher.
- ¹⁹ J.R. Green, *History*, p. 223; A.S. Green, *Town Life*, p. 221 and cf. p. 439 (the 'dominant instinct of

race’).

²⁰ O. Gierke, *Political Theories of the Middle Age*, ed. and trans. F.W. Maitland, Cambridge 1900.

²¹ Spellings in OE and ME are very various. The OE form *burh* is so commonly used by historians and archaeologists, sometimes with the curious plural *burhs*, as to have acquired a spurious technicality, but it was not apparently the most common in OE: Healey and Venezky, *Microfiche Concordance to Old English*. H. Kurath ed., *Middle English Dictionary*, (Ann Arbor 1956-) does not indicate the relative frequency of different forms.

²² See S. Reynolds, ‘Towns in Domesday Book’, in: J.C. Holt ed., *Domesday Studies*, London 1987, pp. 295–309.

²³ *Natural Law and the Theory of the State*, trans, and introd. E. Barker, Cambridge 1932, p. xii.

²⁴ Reynolds, ‘The Idea of the Corporation in Western Christendom before 1300’, in: J. Guy and H.G. Beale ed., *Law and Social Change in British History*, London 1984, pp. 27–33, partly reprinted in *Kingdoms and Communities in Western Europe, 900–1300*, Oxford 1984, pp. 59–64; ead. ‘The History of Group Litigation’ (review article), *University of California Law Review*, 37 (1989), pp. 421–31.

²⁵ This is argued further, with references, in *English Medieval Towns* and ‘Towns in Domesday Book’.

²⁶ The following section is based on Reynolds, ‘Medieval Urban History and the History of Political Thought’, in: *Urban History Yearbook* (1982), pp. 14–30 and *Kingdoms and Communities*, pp. 184–218, pp. 328–9. In both of these I failed to cite C. Martin, ‘Medieval Commentaries on Aristotle’s Politics’, in: *History* 36 (1951), pp. 29–44, which has a few more examples of the use of the terms, as does A. Black, *Guilds and Civil Society in European Political Thought*, London 1984, pp. 76–85. I do not think that these examples invalidate my general argument.

²⁷ W. Herborn, *Die politische Führungsschicht der Stadt Köln im Spätmittelalter*, Bonn 1977, pp. 4855. F. von Klocke, *Das Patriziatsproblem und die Werlen Erbsälzer*, Münster 1965, p. 16, cites a reference to *patricii et patriciae familiae* from 1306 but that has not the same connotations as the collective word. Cf. Reynolds, *Kingdoms and communities*, p. 204n.

²⁸ S. Rigby, ‘Urban “Oligarchy”, in Late Medieval England’ in: *Towns and Townspeople*, pp. 62–86.

²⁹ J. Kermode, ‘Obvious Observations on the Formation of Oligarchies in Late Medieval English Towns’, in: *ibid.* pp. 87–106.

³⁰ *Ibid.* p. 100, p. 102; cf. Reynolds, *English Medieval Towns*, pp. 85–6.

³¹ J.T. Evans, ‘The Decline of Oligarchy in Seventeenth-century Norwich’, in: *Journal of British Studies*, 14 (1975), pp. 46–76; R. O’Day, ‘The Triumph of Civil Oligarchy in the Seventeenth Century’, in: C. Phythian-Adams ed., *The Traditional Community under Stress*, Milton Keynes 1977, pp. 103–15.

³² E.G. K. Lockridge, *A New England Town*, New York 1970; R.R. Johnson, *Adjustment to Empire*, New Brunswick/Leicester 1981, pp. 8–11, pp. 113–17; T.H. Breen, *The Character of the Good Ruler*, New Haven/London 1970.

³³ Above, nn. 14, 15; also e.g. E. Veale, *The English Fur Trade in the Later Middle Ages*, Oxford 1966.

³⁴ C. Phythian-Adams, *Desolation of a City*, Cambridge 1979, p. 117.

³⁵ See e.g. M. Weber, *Theory of Social and Economic Organization* (= *Wirtschaft und Gesellschaft*, pt. 1), trans. A.M. Henderson and T. Parsons, New York 1947, p. 145, p. 152.

XVI

Space and time in English medieval towns¹

Urban space in medieval England was generally marked off from the countryside by walls or by banks and ditches.² Though few of these defensive boundaries now survive above the ground their line can quite often be detected in street-plans. Roman walls evidently seemed impressive to Anglo-Saxon invaders, for some early kings made their headquarters within them, while missionaries were drawn to them by the combination of royal presence and Roman traditions. Both kings and churches in turn attracted other settlers, though in some cases the first distinctively urban growth may have started just outside the walls, rather than within them. Archaeologists have found evidence of a settlement along the Strand to the west of the walled city of London, for instance, which they date to the seventh, eighth, and ninth centuries, a period in which they think the area within the Roman walls was much less populous.³ The Strand suburb looks very like one of the mercantile settlements that have been found outside walled fortresses in other parts of northern Europe in the same period, though historians now tend to discount the idea, derived from Henri Pirenne, of a regular topographical, social, and economic division between early medieval walled fortresses and their trading suburbs. Too many cases of different and often more complex evolution of urban space have been found, not least in Pirenne's own Belgium.⁴ Sometimes, then and later, market places were put outside walls because there was no room inside or because Roman walls did not extend to the river banks along which traders tended to congregate in an age when much heavy traffic went by water. Their situation need not imply any very significant social or economic division between walled town and suburb or any very significant unification when longer defences were built later on to include existing suburbs. Successive extensions of walls were in any case less common in England than in some other countries where the needs of defence were more constant than they were for most English towns during most of the middle ages.⁵

The planning of urban space can be traced surprisingly early in England. Around the year 900 the kings of Wessex, which then comprised England south of the Thames, organized the defence of their kingdom around a network of fortified places, some of which already had enough population and trade to be considered urban. Inside at least some of these fortifications the streets seem to have been laid out in a regular grid plan.⁶ It may well have been as a result of this policy that the centre of settlement and trade at London moved from the Strand suburb into the walled area and that wharfs began to be built along the waterfront inside the walls.⁷ It would have made sense to make use of the Roman fortifications of the city. In the twelfth and thirteenth centuries, when many new towns were founded and old ones were enlarged, the same sort of grid plans were quite often followed.⁸ In the centre there would often be a market place and church, with a few rectangular streets around and with burgages (i.e. units of urban property) of regular size laid out along the streets. Such plans do not represent any particular aesthetic purpose or intellectual achievement: obviously a society which could produce great cathedrals could manage the straight lines of a grid plan if it wanted. What the plans represent is authority, and authority with a purpose: the tenth-century plans demonstrate the authority and power of the tenth-century kings, which was exercised for the purpose of defence. Later planned towns were more often founded by local lords, not for military purposes but to increase their income from rents and tolls. Where new foundations succeeded, however, the plans might later get obscured by encroachments on market places or new additions round the edges.

From the twelfth century on town communities themselves were beginning to control their own internal affairs and their own internal space - though always, in England, under royal supervision: kings who granted charters could revoke them if they thought municipal governments were abusing their powers and this happened quite often, particularly to London. London was the greatest city of the kingdom and had the greatest liberties, but it was also the most vulnerable to royal interference. All the same, occasional interference and bullying from the central government did not prevent urban communities from undertaking many public works. On the contrary, interference sometimes stimulated their activities, when kings wanted them to improve their streets or repair their walls and gave them permission to raise tolls to pay for the work. Though no English towns took on responsibility for their cathedrals as did the cities of Italy, many of them paved their market squares and main streets, built market halls and guild halls, and so on.

This can be seen clearly in the case of those towns which have been included in the volumes of the *Atlas of Historic Towns*.⁹ In the thirteenth century the people of Bristol diverted a small river to improve their port. There and at some other towns, including of course London, piped water supplies were provided to public fountains. Despite their reputation for dirt and disease, moreover, medieval towns often made heroic efforts to cope with the filth that was inevitably caused by the inadequacy of household sanitation, the need to slaughter animals near to where they would be eaten as well the need to keep them in towns for draught and food, and by the industries that used their by-products.¹⁰

By 1200 there were suburbs outside the defences - whether walls or banks and ditches - that by then surrounded many towns. A good many towns may by then have been as big as they would be for centuries: Winchester, for instance, did not get any larger until the coming of the railway. Suburbs were not in general favoured, as they would be later, by wealthy people wanting space for their houses and gardens. The rich more often had their houses on the market square or main streets. While many smaller and poorer houses would be squashed into lanes and courts behind them, others would be put up in suburbs, particularly if the suburbs were outside the jurisdiction of the town authorities. Whenever and however suburbs grew, their growth and character are clearly important indicators of urban life. The siting of religious houses founded in the twelfth century and later, notably those of the friars, and of late medieval hospitals is often an indication of the extent of the built-up area at the time they were established: spacious new churches and cloisters were perforce built on the periphery of towns that were already crowded with housing.¹¹ After the Black Death, when houses fell vacant and the property market was depressed, more space became available, so that the founders of colleges at Oxford and Cambridge were able to buy land that had once been inhabited and cover it with quadrangles or courts.¹²

While some suburbs were outside municipal jurisdiction, not all were. The difference between the extent of the built-up area and the extent of the town's jurisdiction was an important one. Even within the walls great churches and their property, as well as royal castles, were often outside the jurisdiction of the town authorities. York, for example, has been described as 'honeycombed with other franchises'.¹³ Towns could not extend their boundaries to include new suburbs just when they wanted to do so. Royal authority was too pervasive and too firmly established for that. One might therefore have expected that both central and municipal governments would have taken pains to keep records of urban

boundaries, but they did not always do so. In the later middle ages the limits of municipal jurisdiction at Norwich were frequently under dispute: no one seems to have been sure where they ought to be.¹⁴

One extraordinary anomaly in the boundaries of English towns has survived from the middle ages. The Roman walls of London included a large area by northern European standards – 270 hectares. By the twelfth century the city's jurisdiction extended outside them but either then or not much later it apparently stopped expanding to include new suburbs. By the seventeenth century the spread of building was posing problems of disease and disorder which worried both the king's privy council and the mayor and corporation, but, while the mayor and corporation were anxious to get control of the enclaves within their jurisdiction inside the walls, they were reluctant to take full responsibility for the suburbs beyond. The royal government, on the other hand, wanted them to take responsibility for the suburbs but on terms it dictated. The result was stalemate.¹⁵ As a result, when other English towns began to grow in the industrial revolution and when their authority was - in the end - extended accordingly, the city of London's boundaries were not enlarged. The government of the area outside the walls was thus divided between the three counties of Middlesex, Essex, and Surrey and among many parishes, not to mention the various bits and pieces that for one reason or another fell outside any parish. The result was chaotic and unhealthy, but it was not until 1888 that a new authority, called the London County Council, was set up to govern the metropolis outside the city walls: modern governments, unlike medieval kings, have either not dared or not wished to touch the liberties of the City of London.¹⁶ After 1888, while the city, still governed within its fossilized medieval boundaries under a fossilized form of its late medieval constitution, has never felt a breath of socialism, the London County Council (later the Greater London Council) started as 'Progressive' and later tended to be more often Labour than Conservative. It was consequently abolished by a Conservative central government in 1986, so that since then there has been no single authority to plan or govern the capital. The city of London, now an area of office buildings with a resident population of only about four thousand, is once more, as it was in the middle ages, the only unit of local government which bears the name of London.¹⁷

* * *

Time in medieval English towns was marked, as was time in the countryside, by the hours of daylight and darkness, by the seasons, by church feasts and church bells, and by the town bells and town horns which summoned citizens or burgesses to meetings.¹⁸ Many townspeople must meanwhile have experienced the kind of change in their life that made them very aware of the passage of time. Surviving records suggest that urban populations always contained a large, though unquantifiable, proportion of immigrants and that deathrates within towns were high, though also unquantifiable. As a result, people who lived to old age must have become almost as accustomed to changes among their family and neighbours as are those who live in the supposedly more mobile and unstable families of today. They were also accustomed to changes, if relatively small ones, in the use and appearance of the urban space in which they lived. Urban redevelopment is not a modern invention and medieval towns were not theme-parks of ancient heritage. Fires were frequent. Even when buildings were not destroyed by accident, the character of much medieval housing made alteration and rebuilding relatively easy. While the more solid parts of bigger houses could survive for centuries, especially if they were built of stone, new workshops and cottages were squeezed in around them when demand was high and space was precious, and were then demolished when demand and rents were low. Cooperative work by archaeologists on the ground and by historians on title-deeds has shown that many rebuildings and destructions did not affect property boundaries, which in some cases remained unchanged for centuries, so that they can be traced on modern maps, but that in other cases old boundaries were obliterated along with old buildings as property was bought and sold, combined and divided.¹⁹

From the twelfth century many towns had royal charters which they preserved carefully - London even thought it was worth paying the royal chancery for two or three copies of each charter and has kept most of them ever since. From the thirteenth century towns also began to keep their own records of their own courts and administration - though often rather irregularly: the town clerk of Ipswich absconded with the records in 1274 and the townspeople had to start all over again.²⁰ Nevertheless, although English towns kept records, they conducted their affairs according to customary law. Their records were the records of oral business done largely by unprofessional, unpaid citizens who took their turns in running local affairs. Consequently they tended to make rules to fit particular cases: every time that one of their records says that something 'has always been the custom' we can be sure that it had not. The statement was made precisely

because there was a dispute: presumably the custom had recently been broken or at least questioned in at least one case. In future another ruling might be made.

It is not surprising that the records were not consulted. They must have been difficult to use. Relying on the memory of those present was more likely to produce a past which would suit the needs of the moment. Even today, committees of highly literate academics sometimes act in rather the same way. One result of these habits in the middle ages was that towns lacked clear rules about such important matters as the qualifications for citizenship - the burgess franchise.²¹ If there was trouble over a particular case a ruling might be made and occasionally the clerk of a town or craft might start to try to keep a register of those admitted but it seldom lasted long.

The recent past could thus be manipulated, consciously or unconsciously, to produce a convenient answer from what was thought of as unchanging ancient custom. But towns nonetheless had a perception of their own past which they did not get from their records. In the twelfth century London, like many other European cities, acquired a myth of foundation by the Trojans.²² According to one proud Londoner his city had been founded by Brutus before ever Rome was founded by Romulus and Remus.²³ In the fourteenth century Barnstaple (Devon) and Malmesbury (Wilts.) both claimed to have been granted charters by the tenth-century king Athelstan, though the people of Barnstaple admitted that their charter had by chance got lost. Axbridge (Somerset) is known to have cherished a similar story after the middle ages, as did Beverley (Yorks.). Barnstaple, Malmesbury, and Axbridge were all within Athelstan's ancestral kingdom of Wessex and he could perhaps have visited Beverley on the way to fight the Scots, but if stories about him had been constantly preserved they were not very accurate: tenth-century English kings had not really granted charters to towns. Beverley's story can be traced back as early as the twelfth century but it clearly got amended as time went by and the desire for charters grew. The twelfth-century version made Athelstan a benefactor of the church of Beverley; in the fourteenth century a suitable charter in favour of the church was fabricated in his name; by the fifteenth the townspeople were interpreting that charter as if it had been granted to them as well as to the archbishop of York - who in practice allowed them only intermittent and partial autonomy. The people of Barnstaple, meanwhile, after being frustrated in their reliance on Athelstan, took more decisive and successful measures to give themselves the liberties that their civic pride and solidarity deserved. In the fifteenth century they copied a series of five charters belonging to the nearby city

of Exeter, changed the names, and presented them to the royal chancery for confirmation. They succeeded, perhaps because they bribed the chancery clerks, perhaps because the clerks were too lazy to consult the enormous and unindexed records of the chancery²⁴

However that may be, we can see that the records which were so carefully preserved and from which we construct much of our picture of medieval towns, contributed relatively little to the idea of their own past which their inhabitants may have had. Medieval townspeople created their own past to suit their sense of ancient custom, civic solidarity and civic pride, not from everyday records but from mental mirrors in which they could see the reflections which they wanted.

¹ This is a revision of a short paper with the same title that I was invited to contribute to the celebration of the ninth centenary of the University of Bologna. An Italian translation of that version was published in P. Bonora ed. *La città: dallo spazio storico alio spazio telematico* (Turin, 1991).

² M. J. Jones and C. J. Bond, 'Urban defences', in J. Schofield and R. Leech ed., *Urban archaeology in Britain* (Council for British Archaeology Research Report 61, 1987), 81–116.

³ A. Vince, *Saxon London* (London, 1990), 13–25.

⁴ A. Verhulst, 'The origins of towns in the Low Countries and the Pirenne thesis', *Past & Present*, 122(1989), 3–35.

⁵ Jones and Bond, 'Urban defences', 104–7.

⁶ M. Biddle, 'Evolution of towns before 1066' in M. W. Barley ed., *Plans and topography of medieval towns in England and Wales* (Council of British Archaeology Research Report no. 14, 1975), 19–32; S. Reynolds, *An introduction to the history of English medieval towns* (Oxford, 1977), 192–3.

⁷ Vince, *Saxon London*, 26–37.

⁸ D. Palliser, 'The medieval period', in Schofield and Leech, *Urban archaeology*, 54–68, at 56.

⁹ Three volumes have appeared, under slightly different titles: *Historic Towns*, ed. M. D. Lobel (London, 1969), containing Banbury, Caernarvon, Glasgow, Gloucester, Hereford, Huntingdon, Reading, Salisbury; *Atlas of Historic Towns*, ed. M. D. Lobel and W. H. Johns (London, 1975); Bristol, Cambridge, Coventry, Norwich; *The British Atlas of Historic Towns: the City of London from Prehistoric Times to c. 1520* ed. M. D. Lobel (Oxford, 1990).

¹⁰ Reynolds, *English medieval towns*, 128, and references there.

¹¹ D. J. Keene, 'Suburban growth', in Bailey, *Plans and topography*, 71–82. 11

¹² A. Crossley ed., *Victoria County History* [hereafter *VCH*] of *Oxfordshire*, iv (1979), 29–31; M. D. Lobel, *Atlas of Historic Towns: Cambridge*, 13, 15.

¹³ P. M. Tillot ed., *VCH Yorks.: York* (1961), 38.

¹⁴ J. Campbell, *Atlas of Historic Towns: Norwich*, 23.

¹⁵ V. Pearl, *London and the outbreak of the Puritan revolution* (Oxford, 1961), 9–44

¹⁶ D. Owen, *The government of Victorian London, 1855–1889* (Cambridge, Mass., 1982), 23–4, 197–206, 226–60; J. Davis, *Reforming London* (Oxford, 1988), esp. 51–67, 96–100, 176–84, 201–4, 223.

¹⁷ *Whitaker's Almanack*, 1994, 531–2, 558.

¹⁸ A. S. Green, *Town life in the fifteenth century* (London, 1908), i. 127–8, 296, 404; ii. 226–7, 430; M. Bateson, ‘A London municipal collection of the reign of John’, *Eng. Hist. Review*, 17 (1902), 480–511, 707–30, at 502–3 (the great bell of St Paul’s as a quasi-municipal bell); cf. G. H. Maitin and S. McIntyre, *A bibliography of British and Irish municipal history*, i: *General works* (Leicester 1972), 219–23.

¹⁹ D. Keene, ‘A new study of London before the Great Fire’, *Urban History Yearbook*, 1984, 11–21; A. J. Scrase, ‘Development and change in burgage plots: the example of Wells’, *Journal of Historical Geography*, 15 (1989), 349–65.

²⁰ G. H. Martin, ‘The English borough in the thirteenth century’ *Trans. R. Hist. Society*, ser. 5, 13 (1963), 123–44.

²¹ S. Reynolds, *Kingdoms and communities in western Europe, 900–1300* (Oxford, 1984), 185–6, correcting Reynolds, *English medieval towns*, 125–6.

²² J. Clark, *Trinovantum*, *Journal of medieval history*, 7(1981), 135–51; Reynolds, *Kingdoms and communities*, 213.

²³ William Fitz Stephen in *Memorials for the history of Thomas Becket*, ed. J. C. Robertson and J. B. Sheppard (Rolls series, 1874), ii. 8.

²⁴ On Barnstaple: S. Reynolds, ‘The forged charters of Barnstaple’, above, XII; Malmesbury: R. B. Pugh, ‘Malmesbury and 1980’, *Wilts. Archaeol. Magazine*, 74–5 (1979–80), 133–6; Beverley: K. J. Allison ed., *VCH Yorks. East Riding*, vi (1989), 3, 12, 15, 28–30; Axbridge: *First Report on Municipal Corporations: appendix*, H. C. 116, p. 1091 (1835), xxiv.

INDEX

Persons who lived before 1500 are indexed under their first names. An asterisk by a chapter or page number refers to an Afterthought at the end of the chapter. Places in England are identified by their pre-1974 counties, places in France by departments.

Abingdon (Berks.) abbey: [chronicle: IV 104](#)
Adam de Whitebi: [IX 356](#)
Adams, H.: [I 21](#)
Aelfnoth, son of Eadric: [IV 102](#)
Aelfric, brother of Eadric Streona: [IV 102](#)
Aelle, king of Sussex: [III 404](#)
Aethelred, *see* [Ethelred](#)
Aethelwig, abbot of Evesham: [IV 104](#)
aids: [IX 344](#)
Alamanni: [III 400](#)
Alaneus, mythical barbarian: [II 375](#), [377](#), [379](#)
Alard, sheriff of London: [IX 355](#)
Alaric the Goth: [II 379](#)
aldermen: [VIII 308](#); [XIII 49–50](#); and *see* [London](#)
Alexander the Great: [II 376](#)
Alexander III, pope: [I 36](#)
Alexander von Roes: [II 376–7](#)
Almaric of Saint Amand: [XII 704](#)
Amalric I, king of Jerusalem: [I 33](#)
America: [III 395–6](#); [VI 16](#); [XI 3](#); [XV 52–3](#)
anchorage: [XII 706](#)
Andrew Bukerel: [IX 355](#)
Andrew Bucuinte: [IX 354](#)
Andrew Neuelon: [IX 356](#)
Angles: [III 395](#), [397–8](#), [400–2](#), [405](#); *see and see* [England](#)
Anglo-Saxon Chronicle: *see* [Old English Chronicle](#)
Anglo-Saxons: [II 382–4](#), [390](#); [III passim](#); [XIV 3](#); [XV 43](#)
Anjou: [V 241](#)
Annales E. S. C.: [I 21](#)
Anne, duchess of Exeter, wife of Thomas St Leger: [XII 715](#)
anthropology: [I 22–5](#), [30–2](#), [40](#); [VI 2](#), [17](#); [VIII 299](#); [XIV 1](#); [XV 45](#)
Arbroath, declaration of: [II 385–6](#)
archaeology: [VII 2](#); [XIV 1](#); [XV 44](#), [49](#), [54](#); [XVI 5](#)
architecture and buildings: [III 413](#); [VII 8](#); [XI 3](#); [XIV 1](#); [XVI 5](#)
Aristotle: [I 26](#); [II 388](#); [VI 10](#); [XIV 10](#), [13](#); [XV 50–1](#)
Arnold fitz Alulf: [IX 356](#)

Arnold fitz Thedmar: [IX 345](#), [349](#), [352](#)
 Arnulf, bishop of Lisieux: [XII 703](#)
 Athelstan, king of England: [XII 699](#), [713–15](#); [XVI 6](#)
Atlas of Historic Towns: [XV 44](#); [XVI 2](#)
 Aubrey de Vere: [IX 354](#)
 Axbridge (Som.): [XVI 6](#)

bailiffs of towns: [XII 705](#), [716–17](#); [XIII 44](#), [46–50](#); [XIV 3](#), [10](#); *see also* [reeves](#)
 bakers: [VII 9](#); [XII 717](#); assize of bread: [XII 713–14](#), [717–18](#)
 Baldus de Ubaldis: [VI 9](#)
 Baldwin Crisp: [IX 355](#)
 Baldwin, sheriff of Devon: [VIII 303](#) n.
 Balfour, A. J.: [VI 2](#)
 Ballard, A.: [XII 720](#)
 Banbury (Oxon.): [XVI 2](#) n.
 Barker, E.: [XV 48](#)
 Barlow, F.: [127](#), [36](#)
 Barnes, B.: [124](#)
 Barnstaple (Devon): [VIII 301](#) n., [302](#) n., [303](#) n.; [XII passim](#); [XVI 6](#); guild: [XII 713](#); honour, barony, or manor and lords: [XII 707](#) n., [712–19](#); mayor: [XII 709](#), [713–15](#), [717–19](#); other officials and M. P.s: [XII 709–10](#), [713–17](#), [719](#); priory: [XII 713–14](#), [718](#)
 baronies: [V 235–7](#); [XII 712](#), [714–15](#)
 barons: [IX 339](#), [351](#); reliefs of: [V see passim](#); *and see* [London \(barons\)](#)
 Bartolus of Sassoferrato: [VI 7](#), [9](#)
 Barton, King's (Glos.): [XIII 48](#)
 Bath (Som.): [VII 11](#), [12](#)
 Battle (Sussex): [XI 4](#)
 Bavaria and Bavarians: [II 384](#); descent myths: [II 376](#)
 Bede: [II 383](#); [III 398](#), [402–3](#)
 Bémont, C: [V 233](#), [238](#) n., [242](#)
 Benoît de Sainte-More: [II 377](#)
 Berkshire: [VIII 304](#) n., [306](#) n. (on p. 307)
 Bernard, bishop of St David's: [II 385](#)
 Beverley (Yorks.): [XVI 6](#)
 bible: [I 32](#), [33](#); [II 376–9](#)
 bishops: [VI 5](#), [6](#), [8](#); [XIV 3](#); *see and see* [cathedrals](#)
 Blackstone, W.: [VI 13](#), [14](#), [16](#)
 bordars: [VII 9](#); [VIII 306](#) n.
 boroughs: borough farm (or fee-farm): [VI 14](#); [VIII 302](#), [306](#) n.; [IX 340–4](#), [348](#), [351](#), [355](#); [X passim](#); [XI 4](#); [XII 718](#); [XIII 41–3](#), [48](#), [51](#); mesne boroughs: [XII 712](#), [716](#); royal boroughs: [VIII 301](#); [XII 716](#); use of word: [VI 12](#); [VII 3–5](#); [VIII 296–9](#); [XII 714](#); [XIII 40](#); [XIV 2](#); [XIV 4–6](#); [XV 43](#), [47–8](#); *see and see* [burgus](#), [burh](#), [towns](#)
 bovates: [III 409](#)
 Branton hundred (Devon): [XII 714](#)
 Breteuil (Eure): [VII 8](#)
 bretwaldas: [III 405–6](#)
 brewers: [VII 9](#)
 Brichtmar of Haverhill: [IX 355](#)
 bridges: [XII 711](#); bridgemasters: [XV 52](#); *see and see* [pontage](#)
 Bridgnorth (Salop.): [IX 343](#)

Bristol (Glos.): VII 4, 12; XIII 48–9; XVI 2 and n.
 Britain and Britons: III *passim*; descent myths: II 376–7, 385
British Borough Charters: XII 699, 720
 brotherhoods, *see* [fraternities](#)
 Brown, P.R.L.: 137
 Brunetto Latini: XIV 11, 13
 Brutus (Trojan): II 376–7; XVI 6
 Buckerel (Bucherel, Bukerel) family: IX 339–40, 345 n.: *see also* Andrew, Geoffrey
 Bucuinte family: IX 339, 345 n.; *see and see* Andrew, John
 Burchard of Worms: IV*
 burgages: XII 712; XVI 2
 burgesses (*burgenses*): VI 4–5, 14; VII 5, 6, 8; VIII 297–300, 304, 305, 307–8; XII 703, 706–7, 709, 711, 713–18; XIII *passim*; XIV 3, 12, 13; XV 45, 50–1; XVI 5;
 burgess or citizen franchise: VIII 308; IX 345; XIII 44–5; XVI 6
 burghers: XV 45
 Burgundy and Burgundians, descent myths: II 379 386
burgus: VII 3, 4; VIII 295–7, 301, 308, 309 n.; XII 703; XV 47–8
burh (*burga*, *byrig* etc), *burhware*: VII 3, 4, 5, 7; VIII 297–8; XII 711; XV 47 n.
bursarius (purse-maker?): IX 355
 Bury St Edmunds (Suff.): VII 8–9, 11; VIII 300 n.; abbey VII 9
 Byrhtnoth, earl: II 384
 Byzantium: II 375; emperor: II 387

Caernarvon (N. Wales): XVI 2 n.
 Calne (Wilts.): XII 720
 Cambridge: VI 19; VII 6, 11; VIII 303 n., 307, 308 n., 309 n.; XVI 2n.
 Camden, W.: III 405
 Canterbury (Kent): II 385; III 404; VII 6, 11; VIII 300 n., 301 n., 307; archbishops of: IX 339, *see and see* John Pecham, Stephen Langton, Theodore, Thomas Becket; St Augustine's abbey: VIII 303 n.
 capitalism: XV 46–7
 Carolingian empire: I 31; II 383
 castles: VII 7, 8, 11–12; VIII 309; IX 340; XVI 3
castrum: VI 7
 Cathars: I 27 *see and see* [heresy](#)
 cathedrals: VII 8, 11–12; VIII 299, 302 n., 304 n.; XVI 2; chapters: VI 5, 8, 14
ceaster, *ceasterwara*: VII 4, 5, 7; VIII 297, 299
 Ceawlin, king of Wessex: III 404
 Celts: III 396, 400; XV 43
census: VIII 305, 309 n.
 Chadwick, K. M: III 405
 chancery, English, records: V 243; XII 700–11; XVI 6; chancellors: VI 16, *see and see* Ralph Neville, Thomas Becket, William Longchamp; other officials: XII 707–9; XVI 6; suit in: XII 717; *see also* [charters](#)
 Charlemagne: II 383
 charters, confirmation of: V 234, 238; copies of: V 234, 236–43; enrolment of: V 234, 238; XII 700–11, 719; exemplification of: V 239 n.; XII 699–700, 702, 705–10, 716, 718, 720; forgery of: V 233–4; XII *passim*; XIII 40; XVI 6–7; of incorporation: VI 1, 12–15; of inspeximus: V 233–4, 236–7, 238 n., 239 n., 242; XII 701–2, 704, 706, 709–10; to towns: *see* [towns](#)
 Cheshire: IV 104
 Chester: IV 102; VII 6, 11; VIII 299 n., 300 n., 301 and n., 303 n., 307
 Chichester (Sussex): IV 300 n., 303 n., 304 n.; VII 11, 12; bishop of: *see* [Ralph Neville](#)

Chichester, J.: [XII 719](#)
 church and clergy, medieval: [I 28–I 30](#), [32](#), [34–6](#), [38–9](#); [II 378](#); [III 403–4](#); [V 241](#); [VI 5, 8](#); [VII 4, 9](#); [XIV 1, 2](#); [XVI 1, 4, 6](#); gifts to, *see* [mortmain](#); parish churches, *see* [parish](#); *see also* [bishops](#); [friars](#); [law \(canon\)](#); [monks](#); [popes](#)
 citizens (*cives*): [VIII 299, 308](#); [XII 703, 705–6](#); [XIII 41](#); [XIV 3, 11–13](#); [XVI 5](#); *see and see* [burgesses](#)
civitas, city: [II 383, 388](#); [VI 7, 9, 12](#); [VII 4](#); [VIII 297, 299, 307, 308 n.](#); [XIII 40](#); [XV 47–8](#)
 Clark, P.: [XIII 51](#)
 Clarke, H.B.: [VIII 303](#)
cnihtas: [IX 339–40](#)
 Cnut, king of Denmark and England: [III 398, 411–13](#)
 coinage, *see* [mints](#)
 Colchester (Essex): [VII 11](#); [VIII 300 n.](#), [301 n.](#), [304 n.](#), [305 n.](#), [306 n.](#) (on p. 307), [307](#), [309 n.](#)
collegium: [VI 7, 8–9](#)
 common bench or common pleas, court: [VI 14](#)
 common rights: [VI 15](#)
 communes: [VI 6, 7, 10–11](#); [VII 10](#); [IX 342–3, 347–51](#); [X 215](#); [XIII 42](#); [XIV 2, 12](#)
 Constantine fitz Alulf: [IX 356](#)
 Constantine the younger: [IX 356](#)
 cooks: [VII 9](#)
 Cornhill family: [IX 346–7](#); *see and see* [David](#), [Gervase](#), [Henry](#), [Ralph](#), [Reginald](#)
 Cornwall, earls of: *see* [Reginald](#), [Richard](#)
 coroners: [IX 340 n.](#); [XII 714, 715 n.](#), [717](#); [XIII 44](#)
 corporation, ideas of: [II 381](#); [VI passim](#): [VII 7](#); [VIII 306–7](#); [XIII 49](#); [XIV 4–6](#); [XV 46, 48–9, 52](#)
 Coulton, G. C: [127](#)
 counties: [III 408](#); courts: [V 239, 242](#); [VI 12](#); [VII 5, 11–12](#); [VIII 299–303](#); [IX 341](#); [X 212–13](#); [XII 714](#); [XIII 48–9](#); [XIV 5](#); [XVI 4](#)
 Coutances (Manche), bishop of: *see* [Geoffrey](#)
 courts: county: [V 239, 242](#); [VIII 302–3](#); itinerant (eyre): [IX 351–2](#); town: *see* [towns](#) (courts and assemblies); *see also* [chancery](#); [common bench](#); [exchequer](#); [exchequer chamber](#); [justices](#); [law](#)
 Coventry (Warws.): [VIII 300 n.](#); [XI 2](#); [XIV 6](#); [XV 53](#); [XVI 2 n.](#)
 crafts or trades and craftsmen: [VI 6, 12–13, 15](#); [VIII 308](#); [IX 343](#); [XIV 7–9](#); [XVI 6](#); ‘craft guilds’: [XIV 2, 8–9](#); [XV 53–4](#); *see also* [bakers](#), [brewers](#), [bursarius](#), [cooks](#), [fish trade](#), [goldsmith](#), [guilds](#), [merciers](#), [pepperers](#), [porters](#), [robe-makers](#), [shield-makers](#), [shoemakers](#), [skinner](#)s, [tailors](#), [washerwomen](#), [vintners](#), [weavers](#)
 Crediton, bishop of: [XII 711](#)
 crusades: [I 39](#)
 customs (legal): [XII 700](#); [XIV 3, 6](#); [XV 54](#); [XVI 6](#); *see also* [law](#)
 customs (payments): [VII 4, 6](#); [VIII 302, 304–5](#); [X 215–16, 227](#); [XII 703](#)

 Danes: in England: [II 384](#); [III 406–13](#); [IV 104](#); [VII 11–12](#); [IX 339](#); the ‘Danelaw’: [III 406–8](#); *see and see* [‘Five Boroughs’](#); *see also* [Denmark](#)
 Dante Alighieri: [II 388](#)
 David of Cornhill: [IX 355](#)
 Davis, R. H. C: [IX 342](#)
 democracy: *see* [oligarchy](#)
 Denmark: [III 412](#); [IV 104](#); kings: *see* [Cnut](#), [Svein](#); *see also* [Danes](#)
 Derby: [VIII 301 n.](#), [302 n.](#), [303 n.](#)
 Derbyshire: [IV 104](#)
 Devon: [VII 6](#); [VIII 301 n.](#), [302 n.](#), [303 and n.](#), [307](#); [XII 711, 714, 718](#); sheriff of, *see* [Baldwin](#)
 Dobson, R.B.: [XI 2–4](#)
 Domesday Book: [IV 102–3](#); [VII 2–5, 8, 10–12](#); [VIII passim](#): [IX 338](#); [XII 707, 711–12](#); [XIV 5](#); [XV 48](#);

compilation: VII 4; VIII 300–4; ‘satellites’: VIII 301 n., 302 n., 303 n., 304 n.
Domesday Geographies: VIII 306, 309
dominium: VIII 304 n., 305
domus: VIII 304 n.
dona: IX 344
 Dorset: VIII 301 n., 303 n., 306 n. (on p. 307) Dover (Kent): VII 6, 12; VIII 301 n., 303 n., 307
 Dublin, marquess of: *see* Robert de Vere
 Duby, G.: I 26, I 31, 36–7
 Dudo of Saint-Quentin: II 376
 Dudstone hundred (Glos.): XIII 48
 Dunwich(Suff.): VII 11, 12

 Eadric, king of the ceorls: IV 104–5*
Eadric silvaticus: IV *passim*
 Eadric Streona: IV 102
 Earle, J.: IV 102
 earls: III 409, 412
 East Anglia: III 408
 Easton on the Hill (Northants.): XII 701
 Edith, queen of England: VIII 301 n.
 Edmund Ironside, king of England: III 411
 Edmund fitz Gerard: IX 356
 Edward the Confessor, king of England: III 407, 412; IV 102–3; VIII 304, 307
 Edward the Elder, king of Wessex: III 410
 Edward I, king of England: II 377, 385; V 233–4, 236–7; XII 699, 703, 705, 707, 711
 Edward II, king of England: V 234; XII 699, 707, 711, 713, 719
 Edward III, king of England: XII 713
 Edward IV, king of England: XII 717; XIII 51
 Edward VI, king of England: XII 718
 Edwards, J.: 127, 33, 38
 Edwin, carl of Mercia: IV 104
 Egidius Colonna: II 388
 Elizabeth, countess of Huntingdon, wife of Sir J.Cornwall: XII 715
 Eltham(Kent): XII 701
 Ely (Cambs.): IV 104; abbey: VIII 303 n.
 Emery de Sacy: XII 705
 empire and emperors: II 388–9; VI 9: *see and see* Byzantium, Carolingian, Charlemagne, Frederick I-II, Rome
 Engelbert of Admont: II 388
 England and English: descent myths: II 377, 383, 385; III 401–2, 404–5; early kingdoms: II 382, 403–6; XVI 1; government records before 1086: VIII 301–3, 305 n., 309; after 1066: *see* charters; exchequer; kingdom: II 384, 386; III 406, 409–414; IV *passim*; VII 1, 3, 10; kings II 385; III 398, 409; VII 4–6, 9–10; VIII 297, 300–1, 305; IX 338, 347; X 211–13, 216; XIII 41, 48, 50–1; XVI 2, 4, 6; *see and see* Athelstan, Cnut, Edmund Ironside, Edward the Confessor, Edward I-IV, Edward VI, Ethelred, Henry I-IV, Henry VI-VIII, John, Richard I-III, Stephen, William I, William II; languages: II 384–5; III 401–2*, 404–5, 407–8*, 409 n.; VIII 297–9; law, *see* law; Norman conquest: II 384; III 395, 398–9, 407, 413–14; IV *passim*; VII 4–5, 7–10; VIII 302–9; XIV 3; XV 47; queens: VIII 301 n.; religious belief or unbelief in: 127, 33–4
 Ernald scutarius: IX 355
 ErnulfBucel: IX 355
 Essex: III 395, 301 n.; XVI 4; earl of, *see* Geoffrey de Mandeville
 estates or orders: II 390; VI 2

Ethelbert, saint: [IV 103](#)
 Ethelred (Aethelred), king of England: [II 384](#); [III 398](#), [410–12](#); [VII 3 n.](#); [VIII 302](#)
 Eu (Seine-Maritime): [IX 343](#)
 Eudon Savage (Salop.): [IV 103](#)
 Eustace, sheriff of London: [IX 354](#)
 Evesham (Worcs.) abbey: chronicle: [IV 104](#); abbot: *see* [Aethelwig](#)
 exchequer: [V 234–8](#); [IX 341](#), [344](#), [348](#); [X passim](#); [XI 4](#); [XII 718 n.](#); [XIII 41–2](#); records: [V 235–8](#), [241–3](#); [X passim](#); [XII 706](#); *see also* borough farm; pipe rolls
 exchequer chamber, court: [VI 13](#)
 excommunication: [V 239 n.](#)
 Exeter (Devon): [VII 6](#), [11](#), [12](#); [VIII 300 n.](#), [301 n.](#), [302 n.](#), [303 n.](#), [307](#); [XII 699–707](#), [710–13](#); [XVI 6](#); bishop of: [XII 703](#), [712–13](#); duchess of: *see* [Anne](#); duke of: *see* Henry de Holand, John de Holand; treasurer of the cathedral: *see* William de Raleigh
 Exon Domesday: [VIII 301 n.](#), [303 n.](#), [304 n.](#)
 Eye (Suff.): [XII 720](#)
 Eyton, R. W.: [IV 102–3](#)

fairs: [XII 712](#), [714–15](#), [717–19](#)
 farm, *see* [borough](#)
 Febvre, L.: [121](#), [35 n.](#) (on p. [36](#)), [36](#)
 fee-farm: [VI 14–15](#), *see and see* [borough](#)
 ferlings: [VIII 308 n.](#)
 feudalism: [VI 11](#); [VIII 306](#)
 Finn, R. Weldon: [XII 711–12](#)
 fish trade: [XIII 47](#)
 ‘Five Boroughs’: [III 407 n.](#), [408 n.](#), [411](#)
 Flanders: [II 386](#); [XV 46–7](#); [XVI 1](#); towns: [IX 352](#)
 Florence: [XIV 13](#); descent myths: [II 387](#)
 forest charters: [V 233](#), [239](#)
 forestalling: [XIII 47](#)
 France and French: communes or towns: [VI 6](#), [11](#); descent myths: [II 377](#), [380–2](#), [386–7](#); [III passim](#); French in England after 1066: [VII 8](#), [9](#); French Revolution: [VI 18](#); [XV 53](#); kingdom: [II 383](#); [III 397](#); [VI 11](#); kings: [VI 6–7](#), *see and see* Louis IX–X; religious belief or unbelief in: [I 27](#), [I 30](#), [I 33–I 4](#), [36–7](#); *see also* law (French)
 Franks: [III 400](#); descent myths: [II 375–6](#), [379–80](#), [382](#), [386–7](#), [390](#); kingdoms: [II 384](#); [III 406](#); law: [II 382*](#)
 fraternities: [I 38–I 9](#); [VI 12–15](#); [XII 713](#); [XIV 8–9](#); [XV 45](#), [53](#); *see also* [guilds](#)
 Fredegar, chronicler: [II 376–7](#)
 Frederick I, emperor: [VI 7](#)
 Frederick II, emperor: [I 26](#), [36](#)
 Freeman, E. A.: [VIII 304 n.](#)
 friars: [I 34](#), [39](#); [XIII 47](#); [XVI 3](#)
 Fulchered fitz Walter: [IX 354](#)
fyrð: [III 410 n.](#)

gablum.gafol: [VIII 305](#)
 Geddington (Northants.): [XII 700](#)
 Geertz, C.: [I 32](#)
 geld: [VII 6](#); [VIII 301 n.](#), [304](#), [305 n.](#), [307](#); [X 216](#)
 Gellner, E.: [I 32](#)
 Genoa: [VI 8](#)
gentes: [II 375](#), [383](#), [386](#), [388](#); [III 398–9](#), [401–2](#), [404](#)

Geoffrey Bucherell: [IX 354](#)
 Geoffrey *bursarius*: [IX 355](#)
 Geoffrey, bishop of Coutances: [XII 712](#)
 Geoffrey de Mandeville (d. c. 1100): [IX 340*](#), [342](#)
 Geoffrey de Mandeville, earl of Essex: [IX 340](#), [342](#), [354](#)
 Gerald of Wales: [II 385](#)
Germani Germanic peoples: [III 400–2](#); [VI 20](#); descent myths: [II 375](#), [379–80*](#); [III 396](#), [400–1](#)
 Germany and Germans: [VI 5](#), [11](#), [18–20](#); [VII 9](#); [IX 345](#); descent myths: [II 376](#), [384](#); kingdom: [II 383–4*](#), [386](#); [III 397*](#); towns: [VI 11](#); [IX 352](#); [XV 46–7](#), [51–2](#); *see also* law (German)
gersuma: [VIII 309](#); [IX 341](#)
 Gervase of Cornhill: [IX 346–7](#), [354–5](#)
 Gierke, O. von: [VI 18](#), [19–20](#); [XV 46](#), [48](#)
 Gilbert (Becket?): [IX 346](#), [354](#)
 Gilbert de Clare, earl of Pembroke: [IX 339](#)
 Gilbert Prutfot: [IX 354](#)
 Gildas: [III 401](#)
 Giles of Rome: *see* [Egidius Colonna](#)
 Glasgow: [XVI 2](#) n.
 Gloucester: [VII 12](#); [VIII 300](#) n., [302](#) n., [303](#) n.: [IX 343](#); [XIII passim](#); [XVI 2](#) n.; abbey: [40](#); archdeacon of: *see* [John de Gray](#); Boothall: [XIII 43](#), [46](#); cathedral: [XIII 40](#); charters and fee-farm: [XIII 40–4](#), [48–51](#); commune: [XIII 42](#); councils and assemblies: [XIII 41–7](#), [49–50](#); friary: [XIII 47](#); guild and guildhall: [XIII 43](#); hospitals: [XIII 48](#); mayors: [XIII 44](#), [49–50](#); other officials: [XIII 41](#), [44](#), [46–50](#); seal: [XIII 43](#)
 Gloucestershire: [XIII 48](#)
 Godard of Antioch: [IX 355](#)
 Godwin, earl of Wessex: [III 412](#)
 Goffart, W.: [II 379](#)
 goldsmith: [IX 355](#)
 Gosfrith, portreeve of London: [IX 340](#) n.
 Goths, descent myths: [II 376](#), [379](#), [383](#)
 Green, A.: [XV 46](#)
 Green, J. R.: [III 405](#); [XV 43](#), [45–6](#)
 Gregory I, pope: [III 404](#)
 Gregory, sheriff of London: [IX 355](#)
 Gross, C.: [VI 14](#); [XV 43](#), [45](#)
 guilds: [VI 12–14](#); [IX 344](#), [354](#); [X 216](#); [XIV 2](#), [4](#), [8–10](#); [XV 45–6](#), [53–4](#); halls: [VI 4](#); [IX 339*](#); [XIII 43](#); [XVI 2](#); of *cnihtas*: [IX 339–40](#); of merchants: [XIII 43](#), [45](#); [XIV 8–9](#); town: [VI 4](#); [VII 6](#); [VIII 307](#); [XII 713](#); [XIV 8–9](#); of weavers: [IX 339](#); [XIV 8–9](#); *see also* crafts, fraternities
 Guitton, J.: [I 21](#), [I 27](#)
 Guncalinus, peasant: [I 38](#) n.

hagae: [VIII 304](#) n.
 Hamilton, B.: [I 27](#)
 Hamo Brand: [IX 356](#)
 Hamo son of Philip: [XII 705](#)
 Hastings (Sussex): [VIII 300](#) n.
 Hatcher, J. H.: [XI 2](#)
 Hegel, G.W.F.: [VI 20](#)
 Helinant, poet: [I 33](#)
 Helston (Cornwall): [XII 720](#)
 Henry I, king of England: [IX 338](#), [341–3](#); [X 213](#), [215](#); [XII 700](#), [703](#), [712](#)

Henry II, king of England: 136–7; IX 338, 341–4, 348, 351; X 212, 214–15, 217; XII 699–700, 702–3, 711, 720; XIII 42
 Henry III, king of England: V 236, 238–9; VI 7; IX 352; X 212, 215–16, 227; XII 699, 701, 704–6, 711, 720
 Henry IV, king of England: XII 715
 Henry VI, king of England: XII 707
 Henry VII, king of England: XII 718
 Henry VIII, king of England: XII 718
 Henry fitz Ailwin: IX 346, 349
 Henry of Cornhill: IX 347, 355
 Henry, duke of Richmond: XII 718
 Henry Holand, duke of Exeter: XII 715, 717
 Henry of St Albans: IX 356
 Henry de Tracy: XII 712
 Herbert, N. M.: XIII 42, 47–8
 Herder, J. G.: VI 20
here: III 410–11
 Hereford: IV 102–3; VII 8, 12; VIII 299 n., 300 and n., 301 n., 303 n., 305 and n., 308; XVI 2 n.; bishops of: IV 103 n.; cathedral: IV 103
 Herefordshire: IV 102
 heresy: 125–127, 29, 31–5, 38
 Hereward, English rebel: IV 104
 heriots: VIII 304 n.
 Hertford: VIII 303 n.
 hides: VIII 299, 306
 Hilton, R. H.: XV 44
Historia Brittonum: II 377
 Holand family: XII 716; *see also* Anne, Elizabeth, Henry, John
 Holt, J. C.: V 234
 hospitals: IX 354, 356; XIII 48; XVI 3
 Hudson, A.: I 38
 Hugh of Basing: IX 356
 Hugh of Buckland: IX 354
 Humber, river: III 410–11
 hundreds: III 408 n.; VIII 299, 302; XII 714; XIII 48; XIV 4
 Huntingdon: VII 11; VIII 304 n., 308 n.; XVI 2 n.; countess of: *see* Elizabeth; earl of: *see* John de Holand
 husting: *see* London
 Hythe (Kent): VII 11; XII 720

 Iceland: III 410
 incorporation: *see* corporation; towns
 industry: VI 15; VII 2, 3; VIII 295–6; IX 352, 354–6; XIII 46; XIV 1–2; XIV 7; XV 48–9, 53–4; XVI 2; *see also* capitalism; crafts
 Ine, king of Wessex: III 404
infangenethef: XII 706
 Innocent IV, pope: 135; VI 8–9
 Ipswich (Suff.): VII 11; VIII 310 n.; XIV 12; XVI 5
 Ireland and Irish III 396, 401, 406 n., 410; X 224; descent myths: II 376, 385
 Isidore of Seville: II 376, 379, 383*
 Islam: I 35
 Italy and Italians, descent myths: II 377, 379, 387, 390; Italians in England: IX 340; religious belief or unbelief

in: [I 27](#), [36](#); towns: [VI 8](#), [9](#), [11](#), [17](#); [VII 6](#), [10](#); [XIV 11](#), [13](#); [XV 47](#), [51](#); [XVI 2](#)

Jahoda, G.: [I 24](#)

James alderman: [IX 356](#)

James Audley: [XII 714–15](#)

Jean de Joinville: [I 34](#)

Jean Quidort, of Paris: [II 386–8](#)

Jerusalem, *see* [Amalric](#)

Jews: [134–5](#); [IX 340](#), [345](#); [X 216](#)

John, king of England: [V 241](#); [IX 348](#), [349*](#), [350–351](#); [X 216–17](#); [XII 699–700](#), [703](#), [711](#), [720](#); [XIII 43](#), [48](#)

John XXII, pope: [II 386](#)

John Pecham, archbishop of Canterbury: [V 239](#)

John Bucuinte: [IX 355](#)

John of Burgundy: [IX 345](#)

John de Caiho: [IX 356](#)

John Cornwall: [XII 715](#), [717](#)

John Culme: [XII 709](#)

John fitz Elinand: [IX 356](#)

John de Garlande: [IX 356](#)

John fitz Geoffrey: [XII 704](#)

John de Gray, archdeacon of Gloucester: [XII 704](#)

John fitz Herlicun: [IX 355](#)

John de Holand, earl of Huntingdon, duke of Exeter (d. 1400): [XII 715](#), [717](#)

John Holand, earl of Huntingdon, duke of Exeter (d. 1447): [XII 715](#)

John Marshal: [XII 704](#)

John fitz Nigel: [IX 355](#)

John de Plessey: [XII 705](#)

John fitz Ralph: [IX 346](#), [355](#)

John Rayny: [XII 710](#)

John, sheriff of London: [IX 342](#), [354](#)

John Stopyndon: [XII 707–8](#)

John Travers: [IX 356](#)

John Waleram: [IX 356](#)

John of Worcester: [IV 102](#)

Jordan Fantosme: [IX 347](#)

Jordanes, historian of the Goths: [II 379](#)

Josce fitz Peter: [IX 356](#)

Josce the vintner: [IX 355](#)

judices: [VI 6](#); [VIII 307](#)

Juhel of Totnes: [VIII 301](#) n.; [XII 712–13](#)

Jukel, sheriff of London: [IX 355](#)

justices, justiciars: [IX 340–1](#); of the peace: [XII 719](#); [XIII 47](#), [50](#)

Jutes: [II 383](#); [III 400](#), [405](#)

Kappelle, W.E.: [III 411](#)

Keen, M. H.: [IV 104](#)

Keene, D. J.: [XV 44](#)

Kent: [III 395](#), [301](#) n.; [IX 346–7](#)

Kermode, J.: [XV 52](#)

kings and kingdoms: [II 381–90](#); [III 411](#), [413](#); [VI 5](#), [9](#); [VIII 305](#); [XIV 3–4](#), [8](#), [12](#); *see also* England, France,

Germany, Scotland
knights, *see cnihtas, milites*

Lacock (Wilts.) abbey: [V 238 n.](#)

lastage: [XII 703](#)

law, academic: [VI 2, 5, 6–11, 16–20](#); American: [VI 16](#); canon: [VI 5, 8–11, 12](#); [XIV 6](#); customary: [VI 3–5](#); [VII 7–9](#); [XVI 6](#); English: [II 385](#); [III 406–8](#); [VI 1–2, 11–20](#); [VII 2–3, 5, 8](#); French: [VI 6–7, 11, 17, 19](#); [VII 9](#); German: [VI 11, 17, 18–20](#); legal personality: *see corporation*; medieval ideas of law: [II 380–5, 388–90, 408–9](#); [V 237, 241–4](#); [VI passim](#); [VIII 298–9, 307](#); [XIII 43, 45, 49](#); [XIV 3–6](#); [XV 48, 53](#); ‘personal law’: [III 406, 408](#); penalties and profits: [VII 6, 8](#); [VIII 304 n., 307](#); [X 215–16](#); [XII 713, 715–18](#); professional: [VI 5–6, 8–20](#); [XIV 6](#); Roman: [VI 2, 7–11, 18](#); [XIV 6](#); [XV 49](#); urban: [XIII 296, 298](#); [XII 700, 705–6, 713–14](#); [XIII 42–3, 47](#); *see also courts*; *justices*; *quo warranto*; *statutes*

lawmen: [VII 6](#); [VIII 307–8](#)

legal personality: *see corporation*

Leicester: [VII 11](#); [VIII 300 n., 301 n.](#); earl of: *see Simon de Montfort*

Leofstan, sheriff or justice of London: [IX 354](#)

Lewes (Sussex): [VII 11, 12](#); [VIII 302 n., 306 n.\(onp. 307\)](#)

Lincoln: [III 412](#); [VII 3, 6, 11, 12](#); [VIII 300 n., 307, 309](#); [XIV 9–10](#)

Lincolnshire: [V 242](#)

Lindsey: [III 411](#)

Lisieux (Calvados), bishop of, *see Arnulf*

literacy and illiteracy: [I 24, I 31–2](#); [VI 5–6](#)

Liutprand of Cremona: [II 387](#)

London: [III 411](#); [VI 12](#); [VII 3–7, 10–12](#); [VIII 302, 307](#); [IX–X passim](#); [XII 700, 703, 709](#); [XIII 42](#); [XIV 4, 12](#); [XV 43–4](#); [XVI 1–3, 4, 6](#); aldermen and wards: [VIII 308](#); [IX 338–9, 341, 343, 344 n., 345–7*, 349, 352–6](#); barons of: [IX 339, 345*, 347, 350](#); [XII 703](#); castles: [IX 340–1, 346–7, 351, and below](#), Tower; chamberlains: [IX 340](#); charters and/or farm: [IX 337, 340–4*, 347, 351, 355](#); [X passim](#); [XVI 5](#); churches: [IX 339](#); [X 215, and below](#), St Paul’s; common council: [IX 350](#); commune: [IX 342, 347–51](#); [X 215](#); crafts/trades: [IX 339, 340, 343, 349, 355–6](#); [X 216, 226](#); [XIV 9](#); customs (legal): [XII 700, 703](#); customs (payments): [VIII 302, 227](#); folkmoot: [IX 339*, 349*, 350*](#); gates: [X 215](#); guildhall: [IX 339*](#); guilds: [VI 12](#); [IX 339, 344, 354](#); [X 216](#); heresy or unbelief in: [133*](#); hospitals: [IX 354, 356](#); husting: [IX 339, 345*, 349](#); Jewry: [IX 340, 345](#); [X 216](#); justices: [IX 340–2, 346, 354–6](#); mayors: [IX 346, 349–52, 355–6](#); [XVI 4](#), *see and see Henry fitz Ailwin*; portreeve: [IX 340*, 354](#); St Paul’s cathedral: [IX 348, XVI 4 n.](#); and canons of: [IX 339](#); [X 212](#); [XVI 5 n.](#); sheriffs: [IX–X passim](#); sokes: [IX 356](#); suburbs: [XVI 1–2](#); taxes: [VIII 307](#); [IX 344, 350–1](#); [X passim](#); Tower: [IX 340*–2, 348 n.](#); [XII 706–7, 709](#); wards, *see above*, aldermen; wharfs: [IX 344](#); [X 215](#)

Louis IX, king of France: [134–5, 39](#)

Louis X, king of France: [II 387](#)

Low Countries: [XV 46, 51](#); [XVI 1](#)

Lugg, river: [IV 102](#)

Lydbury North (Salop): [IV 103](#)

Lydford (Devon): [VIII 301 n.](#); [XII 712](#)

Lynn, now King’s Lynn (Norf.): [XI 3](#)

Lyon: [VI 7](#); archbishop of: [VI 7](#)

Maelienydd (Radnorshire, Wales): [IV 103](#)

Magna Carta: [V passim](#); 1215: [V 234–5, 240–1, 242–3](#); [IX 351](#); 1216: [V 235, 242](#); 1217: [V 235, 239–40, 242–3](#); 1225: [V passim](#); 1265: [V 234, 236, 238, 239 n., 242](#); 1297: [V passim](#); 1300: [V 234, 237, 242–3](#); ‘Confirmation of the Charters’, 1297: [V 234, 242](#)

Maitland, F. W.: 121; [V 244](#); [VI 1–2, 5, 19](#); [VIII 306](#); [XIV 4](#); [XV 46](#)

Maldon (Essex): [VII 11](#); [VIII 303 n., 307](#)

Malmesbury (Wilts.): [VIII 301 n.*](#), [306 n.](#) (on p. 307); [XII 720*](#); [XVI 6](#)
 Malthus, T. R.: [XI 2 n.](#)
 manors: [VI 15](#); [VIII 300–3](#), [306](#); [XIV 4](#)
 Mannus, mythical barbarian: [II 375](#), [377](#), [379](#)
mansiones, *mansurae*, *masurae*: [VIII 304 n.](#)
 Margaret Beaufort: [XII 718](#)
 markets: [VII 2](#), [4](#), [8](#); [VIII 295–6](#); [XI 4](#); [XII 712](#), [715–19](#); [XIV 7](#); [XV 44](#), [49](#); [XVI 1–3](#)
 Marrow, T.: [XII 719](#)
 Marsilius of Padua: [II 388](#)
 Martin fitz Alice: [IX 356](#)
 Marx, K.: [XIV 2](#); Marxist historiography: [I 27](#); [III 413](#)
 Maserfelth (unident): [III 404](#)
 Matilda, empress: [IX 340](#), [342–3](#)
 Matthew Paris: [V 239](#), [240 n.](#), [241](#)
 mayors: [VI 4](#), [14](#); [IX 346](#), [349–52](#), [355–6](#); [XII 705](#), [709](#), [713–15](#), [717–19](#); [XIII 44](#); [XIV 3](#), [10](#), [12](#), [13](#)
mercatores, merchants: [VIII 300](#); [IX 338](#), [340](#), [343](#), [345](#), [347](#), [349](#), [352](#); [XII 709](#); [XIII 43](#), [46](#); [XIV 7](#), [8](#); [XV 51](#)
 mercenaries: [IX 356](#)
 Mercia: [II 383](#); earl of: *see* Edwin; king: *see* [Penda](#); law: [III 408](#)
 Michael de Valence: [IX 355](#)
 Middlesex: [III 395](#); [VII 12](#); [IX 341–2](#), [344](#); [X 213–17](#); [XIV 4](#); [XVI 4](#)
 military service: *see* *milites*, towns
milites or knights: [VII 9](#); [VIII 306 n.](#) (on p. 307); [IX 339](#); knight service: [IX 342](#), [346–7](#)
 mills: [XII 713](#); [XIII 47](#)
 mints and moneyers: [VII 2–3](#), [4](#); [VIII 296–7](#), [307](#); [IX 340](#); [X 216](#); [XII 711](#)
 misteries, *see* [crafts](#)
 money-lending: [IX 340](#), [346–7](#)
 monks and monasticism: [I 24–I 25](#), [29](#), [37](#), [39](#); [VI 5–8](#), [12](#), [14](#); [VII 8](#); [IX 345](#); [XII 712–14](#), [718](#); [XV 44](#); [XVI 2](#);
 see also [friars](#)
 Montaillou (Ariège): [I 33](#), [36](#)
 Moore, R.I.: [I 39](#)
 Morcar, earl of Northumbria: [IV 104](#)
 mortmain regulations: [VI 11–14](#), [17](#)
 murage: [XII 701](#), [705–6](#)
 Murray, A.: [127](#), [33](#), [36](#), [38](#)
 Murray, J.: [III 395](#), [397](#)

nation, idea of: [II 375](#), [383–5](#), [387–8](#); [III passim](#): [IV 104](#); [VI 18–19](#); [VIII 304 n.](#); [XV 43](#), [45–7](#), [54](#)
 Neen Savage (Salop.): [IV 103](#)
 Netherlands (medieval), *see* [Low Countries](#)
 Newcastle under Lyme (Staffs.): [XII 720](#)
 Newport (Devon): [XII 712](#)
 Nicholas Duket: [IX 355–6](#)
 Nicholas de Molis: [XII 704](#)
 Noah, descent from: [II 376–8](#), [380](#)
 Norfolk: [VIII 301 n.](#)
 Norman Blund: [IX 356](#)
 Normans and Normandy: [II 385–6](#), [390](#); [III 412–14](#); [IV 104](#); [V 241](#); [VII 8](#); [VIII 304 n.](#), [308–9](#); [IX 339](#), [346](#);
 descent myths: [II 376](#), [385–6](#); Norman conquest of England, *see* [England](#); Normans in Italy: [II 387](#); towns:
 [VII 8](#)
 Northampton: [VII 11](#); [VIII 301 n.](#)

Northumbria: [III 408, 411](#); earl of, *see* [Morcar](#)
 Norwegians in England: [III 406–7](#)
 Norwich (Norf.): [VII 11, 12](#); [VIII 301 n., 304 n., 306 n., 309 n.](#); [XVI 2 n., 3](#)
 Nottingham: [VII 11](#); [VIII 301 n., 302 n., 303 n., 309 n.](#)
 Nottinghamshire: [VIII 301 n.](#)

oaths: [VI 6, 8](#); [VII 7](#); [IX 342, 348](#)
 Old English Chronicle: [III 409–11](#); [IV 102](#)
 oligarchy: [XIV 1, 2](#); [XIV 10–13](#); [XV 50–2](#)
 Orderic Vitalis: [II 38](#); [IV 102–4](#)
 Osbert Eightpence: [IX 342, 354](#)
 Oswald, archbishop of York: [III 412](#)
outfangenethefi [XII 706](#)
 outlaws: [IV 104–5*](#); [VI 4](#)
 Oxford: [VII 11](#); [VIII 300 n., 301 n., 304 n.](#); [XVI 3](#); earl of, *see* [Robert de Vere](#)
Oxford Companion to Law: [VI 1](#)
Oxford English Dictionary: [III 39](#); [XIV 10](#)

Page, W.: [IX 345](#)
 Painter, S: [V 236](#)
 Pallig, Dane in England: [III 412](#)
 Paris, treaty of: [V 241](#)
 parish churches: [132, 38–9](#); [VII 8](#); [XI 3](#); [XVI 2](#); churchwardens: [VI 14](#); parishes and incorporation: [VI 14–16](#)
 parliament: [V 236](#); [VI 2, 14, 16](#); [XII 707](#); borough members: [XII 709, 713–14](#); *see also* [statutes](#)
 passage (payment): [XII 703](#)
 patricians/patriciate: [IX 338, 340, 345*, 346, 350–3*](#); [XIV 2, 7](#); [XV 50–2](#)
 pavage [XII 701, 705–6](#)
 Peasants' Revolt: [I 33](#)
 Pembroke (Wales): [XII 720](#); earl of, *see* [Gilbert de Clare](#)
 Penda, king of Mercia: [III 405](#)
 pepperers: [IX 340](#)
 Peter Bat: [IX 356](#)
 Peter le Due: [IX 356](#)
 Peter Neuclon or fitz Neuclon: [IX 355–6](#)
 Peter fitz Walter: [IX 355](#)
 Peterborough (Northants.) abbey: [VIII 301 n.](#)
 Petit-Dutaillis. C; [VI 6, 7](#)
 Pevensey (Sussex): [VIII 303 n.](#)
 Phythian-Adams, C: [XI 2, 3, 4](#); [XV 45, 53](#)
 piccage: [XII 706](#)
 Picts: [III 401–2](#)
 pilgrimage: [I 38–I 9](#)
 Pilton (Devon): [XII 709](#); priory: [XII 712](#)
 pipe rolls: [V 235](#); [IX 337–8, 341, 343–4](#); *X passim*; [XII 718 n.](#); *see and see* [exchequer](#)
 Pirenne, H.: [XV 4](#); [XVI 1](#)
 Pisa: [VI 8](#)
 Plummer, C: [IV 102](#)
 pontage: [XII 703, 714](#)
 popes and papacy: [II 386, 389](#); [III 404](#); [VI 10](#); *see and see* [Alexander III](#), [Gregory I](#), [Innocent IV](#), [John XXII](#)
 population: [XI](#) *see passim*; *and see* [towns \(population\)](#)

populus: [II 375, 383](#); [III 399](#); [VI 7](#)
port, portus, portmenn: [VII 3, 5](#); [VIII 297, 300](#)
porters: [VII 9](#)
portmen: [XIII 44–5](#)
portreeves: [VII 6](#); [IX 340*](#)
Postan, M. M.: [XI 1](#)

queens, *see* [Edith](#)
quo warranto pleas: [VI 7](#); [XII 712–13, 718](#)

race, ideas of: [I 22](#); [II 379–80](#); [III 396, 400–3, 405](#)

Rainer the reeve: [IX 354](#)

Ralph of Cornhill: [IX 347](#)

Ralph fitz Everard: [IX 354](#)

Ralph goldsmith: [IX 355](#)

Ralph Helyland: [IX 356](#)

Ralph fitz Herlewin: [IX 354](#)

Ralph Mortimer [IV 102–3](#)

Ralph Neville, bishop of Chichester: [XII 705](#)

Ralph vintner [IX 355](#)

Rannulf the sheriff: [IX 356 n.*](#)

rapes: *see* [Sussex](#)

Reading (Berks.): [XVI 2 n.](#)

reeves of towns: [VIII 300](#); [XIII 41, 44](#); *see also* [bailiffs](#); [portreeves](#)

Reginald, earl of Cornwall: [XII 703](#)

Reginald of Cornhill: [IX 347](#)

Reginald le Viel: [IX 355](#)

Rcgino of Prüm: [II 383*](#)

Reiner fitz Berengar: [IX 355](#)

reliefs: *V passim*

religion, Christian: *I passim*; [II 389](#); [III 401, 404](#); [VIII 295](#); [IX 345](#); [XV 49, 54](#); in general: [I 30–1, 34–5, 38–9](#);
[III 404, 408](#); [VII 2](#); [VIII 295](#); [XV 49](#); popular: [I 25–6, 29, 41](#)

rents: [VII 4](#); [VIII 304–6, 308](#); [XII 715–16](#)

representation, ideas of: [II 380–1, 390](#); [VI 4, 7, 8–9, 13–14](#); [XIV 3–4, 8](#)

res publica: [VI 3](#)

Richard I, king of England: [V 234](#); [IX 348 n., 350 n., 351](#); [X 212–13, 215–17, 225](#); [XII 700, 703](#); [XIII 43](#)

Richard II, king of England: [XII 715](#)

Richard III, king of England: [XIII 51](#)

Richard Blund: [IX 356](#)

Richard, earl of Cornwall: [XII 701 n., 705–6](#)

Richard of Devizes: [IX 343, 351](#)

Richard de Gray: [XII 705](#)

Richard fitz Reiner: [IX 355](#)

Richard fitz Scrob: [IV 102](#)

Richard Selby: [XII 707–8](#)

Richard Vetulus: [IX 355](#)

Richard of Winchester: [IX 356](#)

Richardson, H. G.: [V 243](#)

Richmond, duke of, *see* [Henry](#)

Rigby, S. H.: [XI 1, 3](#); [XV 52](#)

robemakers: [VII 9](#)
 Robert le Bel: [IX 356](#)
 Robert de Berquereola: [IX 354](#)
 Robert Besant: [IX 355](#)
 Robert Blund: [IX 356](#)
 Robert fitz Durand: [IX 355](#)
 Robert de Turnham: [XII 704](#)
 Robert de Vere, earl of Oxford, marquess of Dublin: [XII 715](#)
 Robert fitz Walter: [IX 346](#), [351](#)
 Robert of Winchester: [IX 356](#)
 Robin Hood: [IV 104](#)
 Rochelle, La (Charente-Maritime): [IX 343](#)
 Rochester (Kent): [VIII 300](#) n., [301](#) n., [303](#) n.; bridge: [VI 14](#), [16](#)
 Roger fitz Alan: [IX 355](#)
 Roger Blund: [IX 355](#)
 Roger de Deserto: [IX 356](#)
 Roger Dux (le Duc): [IX 355](#)
 Roger nephew of Hubert: [IX 354](#)
 Roger de Valognes: [IX 354](#)
 Roger Wendover: [IX 351](#)
 Rome and Romans: descent myths: [II 376](#), [379](#); [XVI 6](#); empire: [III 400–3](#), [414](#); [XV 43](#); towns: [VII 11–12](#); [VIII 299–300](#); [XVI 1–2](#); *see and see* law (Roman), popes
 Romney (Kent): [VIII 307](#) n.
 Rothwell, H.: [V 233](#)
 Rouen (Seine-Maritime): [IX 343](#); [XII 700](#)
 Round, J. H.: [VIII 304](#); [IX 338–41](#), [347–9](#)
 Rye (Sussex): [VIII 300](#) n.

 Saint Albans (Herts.): [VIII 300](#) n.
 Saint David's, bishop of, *see* [Bernard](#)
 Saint-Omer (Pas-de-Calais): [IX 347](#)
 Saint Paul's, *see* [London](#)
 Saint-Wandrille (Seine-Maritime) abbey: [VIII 305](#)
 Salisbury (Wilts.): [XII 700](#), [704](#); [XVI 2](#) n.
 Saltmarsh, J.: [XI 1](#)
 Sandwich (Kent): [VII 11](#)
 Saumur (Maine-et-Loire): [XII 700](#), [704](#)
 Savigny, F. C. von: [VI 18](#), [20](#)
 Savoy hospital, *see* [Westminster](#)
 Saxons of England: [III 395](#), [397–405*](#), [414](#); [XIV 3](#); descent myths: [II 383](#)
 Saxons of Saxony: [II 384](#); descent myths: [II 376](#), [397–8](#), [400–2](#)
 Sayles, G. O.: [V 243](#)
 Scandinavia, in descent myths: [II 379–80*](#); *see also* Danes, Norwegians, Vikings
 Schmitt, J. C.: [127](#), [35](#)
 Scots and Scotland: [III 395–6](#), [401–2](#); [IV 102](#); [VI 1](#); [XV 43](#); [XVI 6](#); descent myths: [II 376–7](#), [381](#), [385–6](#)
 seals: [V 238–9](#); [VI 2](#), [7–8](#), [13](#); [XII 708](#)
 Searle, E.: [XI 4](#)
 segiage: [XII 706](#)
 senator: [VIII 308](#) n.; [IX 339](#) n.
 serfs, descent myths: [II 380*](#), [387](#)

Serlo mercer: [IX 356](#)
 Shaftesbury (Dors.): [VII 11](#)
 sheriffs: [VII 5, 6, 12](#); [VIII 301–3, 309](#); [IX–X *passim*](#); [XII 712, 714](#); [XIII 42, 49](#)
 shield-maker (*scutarius*): [IX 355](#)
 shoemakers: [VII 9](#)
 Shrewsbury: [IV 102](#); [VII 11](#); [VIII 299 n., 300 n., 303 n., 309 n.](#); [IX 342](#)
 Shropshire: [IV 102–4](#)
 Sicily, kingdom: [VI 11](#)
silvatici: [IV *passim*](#)
 Simon of Aldermanbury: [IX 356](#)
 Simon, archdeacon of Wells: [XII 704](#)
 Simon de Montfort, earl of Leicester: [V 236](#); [XII 704](#)
 skinnners: [XIV 9](#)
 skivins (*échevins*): [IX 349](#)
 socage: [X 215](#); *see also* [sokemen](#)
societas: [VI 8](#)
 sokemen and sokes: [VIII 304 n.](#); [IX 356](#); *see also* [socage](#)
 Solomon of Basing: [IX 356](#)
 Somerset: [XIII 48](#)
 Southampton (Hants.): [VI 3](#); [VII 11](#); [VIII 304](#)
 Southwark (Surrey), parishes: [VI 14](#)
 Spain, descent myths: [II 376, 379, 383](#); religious belief or unbelief in: 127
 Stafford: [VII 12](#); [VIII 300 n.](#)
 Staffordshire: [IV 104](#)
 stallage: [XII 703](#)
 Stamford (Lincs.): [VII 6, 11](#); [VIII 301 n., 304 n., 307, 308 n.](#)
 standage: [XII 706](#)
 statutes: [VI 1](#); [XII 707](#); collections of: [V 234, 236–7, 239–43](#); statute of Merton: [V 242](#); statutes of mortmain: [VI 11–12, 15](#)
 Stenton, F. M.: [III 405–6, 407 n., 411–12](#); [VIII 307 n.](#); [IX 340](#)
 Stephen, king of England: [IX 340–3, 346](#); [X 212–15](#)
 Stephen Langton, archbishop of Canterbury: [V 239 n.](#)
 Stephen le Gras: [IX 356](#)
 Stubbs, W.: [V 242](#); [VIII 337](#); [XV 43, 45](#)
 Suffolk: [VIII 301 n.](#)
 Sunderland (co. Durham): [XII 720](#)
 Surrey: [IX 347](#); [XVI 4](#)
 Sussex: [III 395](#); [VII 12](#); [VIII 301](#) and n.; king of, *see* [Aelle](#); rapes: [VII 12](#); [VIII 300 n., 301 n.](#)
 states: [VI 10](#)
 Svein, king of Denmark: [III 411](#)

Tacitus, *Germania*: [II 375](#)
 tailors: [VII 9](#)
 Tait, J.: [VIII 305 n., 306](#); [IX 343, 348](#); [X 214](#); [XII 720](#); [XIV 5](#); [XV 43](#)
 tallage: [IX 350](#)
 Taw, river: [XII 711](#)
 Tawton (Devon): [XII 712](#)
 taxes: [VI 6, 7](#); [VII 4, 6, 10](#); [VIII 297, 301](#) and n., [302, 304, 305 n., 306–9](#); [IX 344, 350–1](#); [XI 4](#); [XII 718](#); [XIII 41–2, 44, 46–7](#); *see and see* [dona](#), reliefs, tallage, tolls
 Tees, river: [III 406](#)

Tewkesbury (Glos.): [XIII 50](#)
 Thames, river: [III 406, 409](#); [IV 104](#); [IX 351](#); [XVI 1](#)
 thegnland: [VIII 305 n.](#)
 Theodore of Tarsus, archbishop of Canterbury: [III 404](#)
 Theodoric fitz Derman: [IX 354](#)
 Thetford (Norf.): [VII 11, 12](#); [VIII 301 n.](#)
 Thomas alderman: [IX 356](#)
 Thomas Aquinas: [II 388](#); [VI 8](#)
 Thomas Becket, archbishop of Canterbury: [I 37](#); [IX 342, 346](#); as chancellor [XII 703](#)
 Thomas Everingham: [XII 717, 718 n.](#)
 Thomas of Haverhill: [IX 356](#)
 Thomas St Leger: [XII 715](#)
 Thomas Walsingham: 133–4
 Thomson, J. A. F.: [I 38](#)
 Tierney, B.: [VI 11](#)
 tithes: [VI 15](#)
 Tochi son of Outi: [VIII 307 n.](#)
 tolls: [VII 6](#); [VIII 300, 302, 304](#) and n.; [XII 700, 703, 705–6, 713, 715–17](#); [XIII 42, 45–6, 50](#); [XVI 2](#)
 Torrington (Devon): [XII 714, 716, 718 n.](#)
 Totnes (Devon): [VIII 301 n.](#); [XII 712, 720](#)
 Toulmin Smith, J.: [XV 45](#)
 towns: archaeology: [XV 44, 49](#); autonomy: [VI 4–7, 11](#); [VII 2, 5–7, 9–12](#); [VIII 306–9, IX–X *passim*](#); [XII *passim*](#); [XIV *passim*](#); [XV 43, 45, 47–8, 50–2](#); [XVI 2–4](#); bells or horns: [XVI 4](#); burgesses or citizens, *see* [burgesses](#); charters: [VI 6–7, 9, 12](#); [VII 2, 6–7, 9–10](#); [VII 200, 306](#); [IX 337, 340–2, 348 n., 351](#); [XII *passim*](#); [XIII 4 n., 48–51](#); [XIV 3, 4, 6](#); [XV 47](#); [XVI 5–6](#); courts and assemblies: [VI 4](#); [VII 5, 6](#); [VIII 302–4, 307–8](#); [IX 339, 345*, 348–50](#); [XII 705, 713–18](#); [XII 41–7, 49–50](#); [XIV 3–4](#); [XV 50–1](#); [XVI 5](#); defences: [VI 4](#); [VII 2, 11–12](#); [VIII 296, 299 n., 308](#); [IX 351](#); [XII 711](#); [XIII 47](#); [XIV 5](#); [XV 47–8](#); [XVI 1–4](#), *see and see* [murage](#); definition: [VII 1–2, 5, 7](#); [VIII 295–6, 308](#); [XV 47–50](#); incorporation: [VI 4, 6–7, 9, 12–13, 14–15](#); [VIII 306](#); [XII 710, 719](#); [XIII 49–50](#); [XIV 4, 6](#); [XV 45–6, 48](#), *see and see* [corporation](#); [military service](#): [VII 6, 8](#); [VIII 304, 306–7](#); mythical foundations: [II 377, 387](#); [XIII 40](#); officials: [XI 3–4](#); [XIII 47, 49–50](#); [XIV 3, 4, 10, 13](#); [XVI 5–6](#), *see and see* [bailiffs](#), [Barnstaple](#), [coroners](#), [Gloucester](#), [London](#), [mayors](#), [portreeves](#), [sheriffs](#); population: [VII 3, 4–5, 11–12](#); [VIII 296–7, 304–6, 308](#); [IX 338, 340](#); [XI *passim*](#); [XII 711–12](#); [XIII 48](#); [XIV 6, 13](#); [XVI 5–7](#); seals: [XIII 43](#); taxes and dues: *see* [customs](#), [taxes](#), [tolls](#); town halls (guildhalls): [VI 4](#); [IX 339*](#); [XIII 43](#); [XVI 2](#); typology: [VII 10–12](#); wards and divisions: [VIII 308](#); [IX 339, 344 n.](#); *see also* [communes](#), [law \(urban\)](#)
 trade: [VI 15](#); [VII 2, 3, 5, 6, 10, 11–12](#); [VIII *passim*](#); [IX 338, 340–1, 345–7, 352, 354–6](#); [XI 3](#); [XII 703, 712, 716](#); [XIII 43, 45–8](#); [XIV 1–2, 6–9](#); [XV 48–9, 54](#); [XVI 2](#); *see also* [capitalism](#), [crafts](#), [markets](#), [mints](#), [money-lending](#)
 trade unions: [VI 1–2, 16, 19](#)
 Trent, river: [VII 3](#)
 tribes: [II 379, 384](#); [III 400–1](#)
 Troy and Trojans: [II 376–8, 380, 385–7](#); [XVI 6](#)
 trusts: [VI 1, 16](#)
 Turner, G. J.: [X 214](#)

universitas: [VI 7–8, 10–11, 20](#)
 universities: [VI 11, 18](#)
 Urban History Group: [XIV 10](#)
Urban History Yearbook: [XV 44](#)
urbs, urbani: [VII 5](#); [VIII 297](#)

Vergil: [II 376](#)
 Vico, G. B.: [I 21](#)
Victoria County Histories: [XIII 42, 44, 51 n.*](#)
 Viel family: [IX 345 n.](#)
 Vikings: [III 409 n., 410, 412](#); *see and see* Danes, Norwegians
villae, ville: [VI 7, 12](#); [VIII 300](#)
 vintners: [IX 349, 355](#)
 Vitalis the clerk: [IX 355](#)

Wainwright, T.: [XII 711 n.](#)
 Wakefield, W. L.: [I 27, 33, 38](#)
 Waleran, sheriff of London: [IX 355](#)
 Wales and Welsh: [III 396, 404](#); [IV 102](#); [VII 8](#); [XV 43](#); descent myths: [II 385](#)
 Wallingford (Berks.): [VII 11](#); [VIII 303 n., 304n., 306 n.](#) (on p. 307)
 Walter Brun: [IX 356](#)
 Walter Map: [IV 103*](#)
 Walton Savage (Salop.): [IV 103](#)
 Wantage (Berks.): [III 409](#)
 washerwomen: [VII 9](#)
 Waterford (Ireland): [XII 713](#)
 Watling Street: [III 411](#)
 wapentakes: [III 408 n., 409](#)
 wards, *see* [London](#); [towns](#)
 Wareham (Dorset): [VIII 305](#)
 Warenmouth (Northumb.): [XII 720](#)
 Warwick: [VII 11](#); [VIII 301 n., 303 n.](#)
 weavers: [IX 339](#); [X 216, 226](#); [XIV 8–9](#)
 Wells, archdeacon of: *see* [Simon](#)
 wergelds: [III 404](#)
 Wessex and West Saxons: earls: *see* [Godwin](#); kingdom and kings: [III 395, 398, 409](#); [XVI 1–2, 6](#), *see and see*
 Ceawlin, Edward the Elder, Ine; law: [III 408](#)
 Westminster: [IX 348 n.](#); [XII 700–2, 705](#); [XV 44](#); Savoy hospital: [VI 13](#)
 Whitelock, D.: [III 411](#)
wic : [VII 5, 11–12](#); [VIII 297](#)
 Widukind of Korvei: [II 376](#)
 Wigmore (Heref.) abbey: [IV 103](#); lord of: [IV 103](#)
 William I, king of England: [III 412, 414](#); [IV passim](#); [VII 3, 7–8, 9 n.](#); [VIII 299–301, 304 n.](#); [IX 340](#); [XII 711](#)
 William II, king of England: [I 27, 36, 39](#)
 William, archbishop of Tyre: [I 33](#)
 William fitz Alice: [IX 356](#)
 William fitz Alulf: [IX 355](#)
 William de Balio: [IX 354](#)
 William Blund: [IX 356](#)
 William Briwer: [XII 704](#)
 William Cade: [IX 347](#); [X 227](#)
 William chamberlain: [IX 356](#)
 William the clerk: [IV 103](#)
 William of Eynesford: [IX 354](#)
 William Gernun: [XII 705](#)
 William Hardel: [IX 356](#)

William of Haverhill: [IX 355](#)
William fitz Isabel: [IX 355](#)
William Leluttre: [IX 354](#)
William Longchamp: [IX 348](#)
William of Malmesbury: [IV 104](#)
William de Mandeville, earl of Essex: [IX 348](#) n.
William de Mandeville (d. 1105x16): [IX 342](#)
William Marshal, earl of Pembroke: [XII 704](#)
William fitz Osbert: [IX 350](#)
William de Ralegh, treasurer of Exeter cathedral: [XII 704](#)
William Russel: [V 236–8](#)
Williams, A.: [VIII 310](#) n.
Williams, G.: [IX 345](#)
Willis, B.: [XII 715](#)
Wilton (Wilts.): [VIII 303](#) n.
Wiltshire: [V 238](#) n.; [VIII 301](#) n.*
Winchcomb (Gloucs.): [VIII 302](#) n., [303](#) n.
Winchelsea (Sussex): [VIII 300](#) n.
Winchester (Hants.): [VII 3–6](#), [11](#), [12](#); [VIII 300](#) n., [302](#), [305](#) n., [307](#); [XIII 42](#); [XV 44](#); [XVI 3](#)
Wootton Bassett (Wilts.): [XII 720](#)
Worcester: [VII 12](#); [VIII 300](#) n., [301](#) n., [305](#) n.; [XIII 49](#); bishop of: [VIII 301](#) n.; chronicle: [III 410](#); [IV 102](#)
Wormald, P.: [III 404](#)
Wright, A.P.M.: [XI 4](#)

Yarmouth (Norf.): [VIII 301](#) n., [309](#)
Year Books: [VI 12–13](#), [19](#), [20](#)
York: [III 407](#) n., [412](#); [VII 3](#), [5](#), [6](#), [11](#); [VIII 299](#) n., [300](#) n., [308](#) n.; [IX 343](#); [XI 2](#); [XVI 3](#); archbishops: [XVI 6](#), *and*
see [Oswald](#); town officials: [VIII 307](#), [XV 52](#)
Yorkshire: [IV 104](#)